

To: House Federal and State Affairs

From: John Goodyear, Staff Attorney

Date: February 4, 2021

RE: Opposition Testimony on HB 2025

I want to thank Chairman Barker and the members of the Committee for affording the League of Kansas Municipalities the opportunity to give testimony today in opposition to HB 2025.

Our testimony is focused on Section 2 of the bill. This limits the ability of all law enforcement agencies in the state to enter into agreements with owners or operators of utility poles to install tracking devices to surveil and monitor private properties; requiring a warrant prior to entering the agreement.

Surveillance, as defined in this bill, applies to any physical or electronic presence on private property used to monitor activity or collect information related to enforcement of the law. HB 2025 would require that prior to reaching an agreement allowing a law enforcement agency to install a tracking device on utility poles, they obtain a warrant. In order to be granted a warrant, the agency seeking the warrant must be able to show probable cause that a crime has been, is being, or is about to be committed.

Surveillance of a property is frequently an investigative practice that occurs early on in an investigation. As such, surveillance is often utilized in order to help build the case or demonstrate that probable cause sufficient to obtain a warrant exists. It appears that the intent of this bill is to limit the ability of law enforcement agencies across the state to use early monitoring in efforts to detect crime or establish probable cause. As written, the bill only applies to tracking devices, but it would prohibit a city from entering agreements to put those devices on any utility pole without a warrant. Our fear is that the goal of this legislation is to curtail general surveillance, effectively removing a tool used by local law enforcement agencies to detect criminal behavior, particularly in high traffic or high crime areas.

Surveilling and monitoring property within their jurisdiction is a necessary component of law enforcement efforts to detect and prevent crime across the state. If further limitations are placed on this ability, it will be more difficult for law enforcement to protect the communities they serve. For this reason, the League opposes the bill and would request that the committee not recommend HB 2025 favorably for passage.