



Kansas Bureau of Investigation

Kirk D. Thompson
Director

Derek Schmidt
Attorney General

Opposition Testimony on House Bill 2025
Presented to the House Committee on Federal and State Affairs
By Robert Jacobs, Executive Officer
Kansas Bureau of Investigation
February 4, 2021

Chairman Barker and Members of the Committee:

Thank you for the opportunity to provide written testimony in opposition of HB 2025. HB 2025 prohibits employees of the Kansas Department of Wildlife and Parks from conducting surveillance on private property unless authorized pursuant to a warrant under K.S.A. 22-2502. Furthermore, the proposed bill prohibits law enforcement agencies from entering in to an agreement, whether formal or informal, with an owner or operator of a utility pole to install or have installed a tracking device to conduct surveillance on private property unless authorized pursuant to a warrant. This bill defines the term surveillance as either physical or electronic presence on private property, including the use or installation of a tracking device to monitor activity or collect information to the enforcement of the laws of Kansas.

The mission of the Kansas Bureau of Investigation (KBI) is to provide professional investigative, laboratory, and criminal justice information services to criminal justice agencies for the purpose of promoting public safety and preventing crime in Kansas. Prohibiting the use of physical or electronic surveillance when conducting criminal investigations takes away a significant resources utilized not only by the KBI but by other Kansas law enforcement agencies as well. Additionally, the provisions outlined in HB 2025 could potentially jeopardize an officer's safety.

Digital photography and video recordings are utilized in the investigation of many different types of crimes to include homicide, sexual assault, uses of force, narcotic, and white collar crimes. Digital photographs, video recordings and three dimensional scans are used to document crime scenes, collect images of the neighborhood, and capture aerial photographs. Digital photography and video collection is necessary when documenting a scene to aid the prosecutor and subsequent jury during the criminal justice process. Inhibiting or preventing the use of photography and video recordings on private property can greatly limit the investigators' ability to preserve the scene of the crime.

Unmanned Aerial Vehicles (UAV), commonly known as drones, have been utilized in both tactical and non-tactical situations to assist in emergency response and save lives. The ability to fly above a location and capture real time data through video observation of a high risk environment reduces the danger to both law enforcement personnel and the public. The use of drones to monitor incidents of civil unrest allow law enforcement to quickly respond to emerging threats in a rapidly changing environment. In 2017, a drone was used by law enforcement to assist with the search

and subsequent rescue of an elderly individual in Kansas. Preventing the use of video monitoring equipment in these circumstances increases the risk to public safety and hinders law enforcement's response to emergency situations.

The use of video recording equipment mounted on utility poles has been beneficial in the collection of nefarious and illegal conduct in both rural and urban environments. The KBI assists Kansas law enforcement agencies with the use of video recording systems when criminal activity is suspected at a specific location. An officer's direct observation of criminal activity will help the officer to formulate probable cause, which is required in the application for a court authorized warrant. Observing a location from a distance limits the presence of law enforcement personnel, minimizes risk, and aids law enforcement agencies who have limited workforce and fiscal resources. HB 2025 would reduce the ability of local law enforcement to address criminal activity within their communities.

The KBI utilizes video and audio recording devices when conducting undercover operations. Law enforcement officers use confidential informants in conjunction with video and audio recording devices to gather evidence and maintain the safety of the confidential informant. Video and audio recordings are often used as the basis for probable cause in court authorized search warrants and arrest warrants involving undercover narcotic transactions and the use of confidential informants in clandestine operations. Precluding the use of recording devices on private property would have a direct impact on an officer's ability to receive a search warrant and collect the evidence necessary to successfully prosecute those who violate Kansas law.

The physical use of surveillance is often necessary to stop on-going criminal activity and prevent a subject's escape. Identifying and apprehending individuals known to have arrest warrants helps to prevent the subject's escape and his or her continued threat to the public.

Prohibiting the use of physical and electronic surveillance on private property would hinder the KBI's ability to fulfill its mission to provide professional investigative assistance, promote public safety and prevent crime. The KBI encourages the members of this committee to vote against HB 2025. Thank you for your time and consideration of this testimony.

#####