



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON THE USE OF POLICE BODY CAMERAS

Room 411 South
State Capitol
Madison, WI

July 26, 2018
10:00 a.m. – 3:40 p.m.

Call to Order and Roll Call

Chair Testin called the meeting to order. A quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Sen. Patrick Testin, Chair; Rep. Chris Taylor, Vice Chair; Sen. Chris Larson; Rep. John Spiros; and Public Members Kevin Croninger, Catherine Dorl, James Friedman, Ben Hart (appeared via phone), Mike Kass, and Jeff Klatt.

COUNCIL STAFF PRESENT: Terry C. Anderson, Director; Dan Schmidt, Principal Analyst; Steve McCarthy, Staff Attorney; and Kelly Mautz and Miranda Machgan, Support Staff.

APPEARANCES: Terry C. Anderson, Director, Legislative Council Staff; Amanda Essex, Senior Policy Specialist, Criminal Justice, National Conference of State Legislatures; Paul Ferguson and Spencer Gustafson, Department of Justice (DOJ); Andy Phillips and Hector de la Mora, Attorneys, von Briesen & Roper; and Laken Ferreira, Associate Government Affairs Manager, Axon.

Opening Remarks by the Joint Legislative Council

Terry Anderson, Director of the Legislative Council Staff, welcomed committee members and thanked them for their service.

Introductory Remarks by Senator Patrick Testin, Chair

Chair Testin welcomed committee members and outlined the meeting agenda. He briefly discussed legislation he authored last session on police body cameras that did not pass the Senate. He stated his view that the state needs to adopt uniform standards for police body camera usage to further encourage implementation of body cameras by law enforcement agencies across the state.

Introduction and Background of Committee Members

At the invitation of the chair, committee members introduced themselves and provided brief explanations of their backgrounds and interest in the committee's topic.

Discussion of Distributed Materials by Legislative Council Committee Staff

Dan Schmidt, Principal Analyst, summarized the contents of the Legislative Council committee staff brief regarding the current public records law and its application to police body camera video. Steve McCarthy, Staff Attorney, provided a brief overview of legislative proposals from the previous legislative session regarding police body cameras, including a comparison of the proposals' approaches to police body camera data retention and disclosure.

Presentation by Amanda Essex, National Conference of State Legislatures

Ms. Essex briefly introduced her organization, the National Conference of State Legislatures, and provided the committee with an overview of other states' consideration and action on police body camera and data management legislation. Specifically, she noted in her presentation that states having been considering proposals that, among other topics, require written police body camera usage policies, create studies and task forces to explore police body camera best practices, and provide funding for the use of police body cameras.

Ms. Essex also provided detail on state efforts to legislate on police body camera data management. She noted best practice recommendations by national organizations for data storage, retention, and disclosure and described state-specific legislation on these topics.

Committee members asked Ms. Essex questions about the cost of police body camera data storage, whether states have been including criminal penalties in their legislation for violation of police body camera policies, whether states have been changing or adding provisions specific to police body cameras to public records laws, and state police body camera auditing laws.

Presentation by Paul Ferguson and Spencer Gustafson, Department of Justice

Mr. Ferguson provided the committee with a detailed overview of the Wisconsin public records law, and began by noting the presumption in Wisconsin law of complete public access to public records except in exceptional cases. He described the various roles in a public record request, including the requester, authority, and legal custodian, and provided an overview of what constitutes a record. He then outlined how DOJ processes a public records request, including an explanation of the balancing test by which an authority weighs the public interest in disclosure of the record against the public interest and public policy against disclosure.

Mr. Gustafson provided the committee with a demonstration of video and audio redaction techniques utilized by DOJ, including a description of relevant technologies and their costs. He also informed committee members of DOJ's work to consolidate information on its website at its "Officer Involved Critical Incident" web page.

Committee members asked Mr. Ferguson and Mr. Gustafson questions about the feasibility of DOJ storing local law enforcement police body camera data, whether the current public records law adequately accounts for certain aspects of police body camera data retention and disclosure, how certain video-blurring and pixilation techniques work, how DOJ weighs an individual's right to privacy when determining how to respond to a public records request, and whether the rights of a person accused of a crime are factored into the balancing test.

Presentation by Laken Ferreira, Associate Government Affairs Manager, Axon

Ms. Ferreira provided the committee with an overview of her company, Axon, which sells body cameras, other hardware, and corresponding software, and provided members with a sample body camera to inspect.

She described the "Axon network" of hardware and software options for law enforcement agencies and noted some of the major U.S. cities and Wisconsin localities that are currently Axon customers. She also showed the committee videos that demonstrate the Axon network and provide Axon's view of the future of law enforcement technology.

Committee members asked Ms. Ferreira questions about how Axon structures contracts with its customers, how Axon's body cameras operate, how the company protects and secures its hardware and software, and how long it takes for Axon to train officers to implement and use its technology.

Presentation by Attorneys Andy Phillips and Hector de la Mora, von Briesen & Roper

Attorneys de la Mora and Phillips described their experience representing local governments and law enforcement agencies in matters relating to police body cameras. Mr. de la Mora provided background information on body-worn cameras, reviewed previous legislative proposals, and made legislative recommendations to the committee. Mr. Phillips advocated for legislation that would create a presumption in the law that the absence of police body camera video may not be used against a law enforcement agency in any court proceeding.

Committee members asked questions about the potential for abuse of data collection, whether and how access to police body camera data should be limited, and how a legislative presumption that the absence of police body camera video may not be used against a law enforcement agency would work in practice.

Discussion of Committee Assignment

Chair Testin reiterated his thought that it is important that the state adopt uniform laws on police body camera issues to encourage local law enforcement agencies to begin using body cameras. He noted that the committee will need to discuss issues of data retention and disclosure and privacy rights. Other committee members agreed there is value in uniform laws.

Vice Chair Taylor noted that she believes the issue of when the camera is turned on and off should be discussed by the committee. Senator Larson noted his concern with crafting laws that accommodate future technological advances and do not infringe upon civil liberties. Mike Kass and Jeff Klatt cautioned against overly prescriptive legislation, commenting that law enforcement agencies may stop using police body cameras if they find requirements for usage and oversight to be too onerous. Ben Hart stated that he did not want any legislation to limit access to police body camera video. James Friedman commented that the current law for redaction of records is useful and working well.

Plans for Future Meetings

The next meeting of the Study Committee will be held on Thursday, September 13, 2018, at 10:00 a.m., in the Legislative Council's Large Conference Room, 1 East Main Street, Suite 401.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 3:40 p.m.

[The preceding is a summary of the July 26, 2018 meeting of the Study Committee on the Use of Police Body Cameras, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive>.]

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