



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON THE USE OF POLICE BODY CAMERAS

Legislative Council Conference Room
One East Main Street, Suite 401
Madison, WI

September 13, 2018
10:00 a.m. – 3:05 p.m.

Call to Order and Roll Call

Vice Chair Taylor 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; and Public Members Kevin Croninger, Catherine Dorl, James Friedman, Ben Hart, Mike Kass, and Jeff Klatt.
- COMMITTEE MEMBER EXCUSED: Rep. John Spiros.
- COUNCIL STAFF PRESENT: Dan Schmidt, Principal Analyst, and Steve McCarthy and Ethan Lauer, Staff Attorneys.
- APPEARANCES: Doug Wiorek, Sergeant, and Terrence Gordon, Inspector, Milwaukee Police Department; and Heath Straka, President, Wisconsin Association for Justice.

Approval of the Minutes of the Meeting on July 26, 2018

Approval of the minutes from the July 26, 2018, meeting was moved by Public Member Friedman and seconded by Public Member Klatt. The committee then unanimously approved the minutes by a voice vote.

Presentation by Sergeant Doug Wiorek and Inspector Terrence Gordon Milwaukee Police Department

Sergeant Wiorek presented the Milwaukee Police Department experience of the implementation and operation of body cameras. Sergeant Wiorek discussed the four phases of

deployment used by the department leading up to full enactment of the body camera program, demonstrated the equipment currently in use by the department, and explained the costs related to storage of body camera data. He also discussed the department policies regarding when cameras are to be turned on and how long data is retained by the department.

Inspector Gordon discussed the administrative policies associated with retention, redaction, and release of department records. He indicated that the Milwaukee Police Department receives more than 26,000 requests per year for department records.

Members of the committee asked the speakers a number of questions regarding when and how video records are released by the department, how the records are accessed, downloaded and maintained, and how the minimum standards for video retention are applied. Committee members also asked questions about the specific procedure for initiating recording and for notification of individuals who are recorded.

Presentation by Heath Straka, President, Wisconsin Association for Justice

Mr. Straka presented testimony to the committee in regard to the Wisconsin Association for Justice's position on the use of police body cameras. Mr. Straka emphasized three points:

- Body camera footage should remain a public record.
- Access means accountability and this helps dispute resolution.
- Body cameras do not appear to increase legal exposure.

Mr. Straka also voiced several recommendations on behalf of the Wisconsin Association for Justice. He stated the following:

- Police body camera footage should remain subject to the Wisconsin Open Records Law and generally be available for inspection and copying.
- Legislation should not provide arbitrary veto power against release.
- Preserve access to courts.
- An adequate retention period should be maintained.
- Retention and access requirements should contemplate civil litigation.
- Privacy protections should provide clear guidance.

Committee members asked Mr. Straka questions regarding situations where a victim should have veto power and about maintenance of video footage.

Discussion of Committee Assignment

The committee discussed options regarding law enforcement body camera policy requirements, retention of body camera data, and release of body camera data. The discussion is summarized as follows:

Policy Requirements

Committee members generally agreed that body camera policies prescribed by state law should provide minimum guidance in order to preserve local government discretion in addressing the needs of local law enforcement. Some members indicated that the requirement to have a local policy available to the public was sufficient. Other members indicated that they would like to provide more guidance in state law as to when officers turn cameras on and off. Members also discussed potential options for funding both cameras and camera data storage.

Retention

Committee members generally agreed that a retention period of 120 to 180 days is minimally sufficient for noncritical incidents, with several members indicating that they would still like to see body camera video retained permanently. Members also indicated that critical incidents should be retained at least three or four years pending any legal or administrative action on the footage.

Release

Committee members were divided on the issue of whether to maintain the current presumption of disclosure under the Open Records Law for body camera footage where a determination regarding release would be determined under the balancing test or to provide a specific exemption in an effort to protect victims' privacy rights. Members noted that redaction technology permits a certain amount of anonymity, but that it may not be sufficient to protect victim or witness privacy in all cases. Several members indicated that individuals should have the right to refuse to be recorded, if they request. Some members also indicated that the current Open Records Law is sufficient to handle sensitive information, such as body camera video. Other members were concerned that different record holders will release video differently under the existing law leading to a potential lack of uniformity.

Following discussion, Chair Testin indicated that he would work with Legislative Council to draft a bill that reflects the committee's discussion and that the committee would have an opportunity to discuss and modify the draft at the next meeting.

Plans for Future Meetings

The next meeting of the study committee will be held on Wednesday, October 17, 2018.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 3:05 p.m.

[The preceding is a summary of the September 13, 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.>]