



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON THE USE OF POLICE BODY CAMERAS

Room 225 Northwest
State Capitol
Madison, WI

November 13, 2018
10:00 a.m. - 10:53 a.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 James Friedman, Mike Kass, and Jeff Klatt. Public Members Kevin Croninger and Ben Hart participated in the meeting via teleconference.

COMMITTEE MEMBER ABSENT: Public Member Catherine Dorl.

COUNCIL STAFF PRESENT: Dan Schmidt, Principal Analyst, and Steve McCarthy and Ethan Lauer, Staff Attorneys.

Approval of the Minutes of the Meeting on October 17, 2018

Mr. Friedman moved, seconded by Mr. Kass, that the minutes from the October 17, 2018, meeting be approved. The committee unanimously approved the minutes by a voice vote.

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| <p>ATTENTION: This was the final meeting of the Study Committee on the Use of Police Body Cameras. Committee members are requested to send any corrections regarding these minutes to the Legislative Council staff. After the incorporation of any corrections, these minutes will be considered approved by the committee.</p> |
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Discussion of LRB-0396/P4, Relating to Body Cameras on Law Enforcement Officers and Committee Assignment

Chair Testin stated that it was his intention for the committee to consider three possible changes to LRB-0396/P4 and following the committee's decision in regard to those issues he would ask Legislative Council staff to have those changes drafted into a final bill on which the committee would have the opportunity to vote via mail ballot.

Chair Testin asked the members seeking modifications to describe their proposed changes to the committee.

Representative Taylor moved that the committee insert the term "investigation" at page 4, line 13, between "any" and "case." Representative Taylor indicated that the reasoning for this was to clarify that body camera data should be retained to the conclusion of an investigation without regard to whether a case or complaint is filed.

Mr. Kass indicated that he believes that this amendment was not necessary because the investigation was implicit in the language and that it may only cause confusion over who determines when an investigation is complete.

Mr. Croninger indicated that he believed that the current language would likely serve its purpose.

Representative Taylor questioned what may happen if there is no case or complaint filed, yet an investigation remains pending.

Mr. Kass indicated that the duty to preserve evidence prevents the elimination of such information in a pending investigation. He also indicated that he disagrees with the notion of establishing a higher standard for video evidence than for other evidence.

Senator Larson indicated that any ambiguity should be clarified and supported the idea of including the term "investigation."

Representative Taylor indicated she would have trouble voting for the draft as a whole without the modification, but agreed to withdraw the motion pending further discussion with law enforcement.

Representative Taylor indicated that the second issue she was hoping to resolve was the replacement of all forms of the term "censor" in the draft with the more commonly used statutory term "redact".

Representative Taylor moved, seconded by Mr. Friedman, that the term "censored" on page 6, lines 8 and 22, be replaced with "redacted", the term "censorship" on page 6, lines 9 and 22, be replaced with "redaction", and the term "censor" on page 7, line 2, be replaced with "redact". The committee unanimously approved the motion by a voice vote.

Mr. Friedman requested a change to the draft to address the fact that the language regarding privacy of victims, minors, or record subjects in a location with a reasonable

expectation of privacy appears to only permit denial of body camera data or redaction of certain images, but does not clearly allow a requestor the opportunity to receive unredacted body camera data. He indicated that his concerns could be reconciled by changing the word “shall” to “may” on page 6, lines 8 and 22. He indicated that he thought this would preserve a requestor’s opportunity to argue for an unredacted release if it was in the public interest.

Mr. Friedman moved, seconded by Mr. Klatt, that the word “shall” on page 6, lines 8 and 22, be changed to “may”. The committee unanimously approved the motion by a voice vote.

Chair Testin asked the members if there were any other motions for amendments to the draft.

Mr. Kass indicated that he felt that the draft held body camera data to a higher standard of retention than that of any other type of evidence. He noted that this was evident at page 5, line 7, of the draft where it requires destruction to be preceded by final disposition of the proceeding, a determination from the court or hearing examiner that the data is no longer needed, **and** an order from the court or hearing examiner. He suggested that this may be remedied by changing “and” to “or”.

Representative Taylor and Senator Larson added that they had concerns regarding the interpretation of the term “final disposition” on page 5, line 6, and suggested adding the clarification that this includes appeals.

Mr. Kass moved, seconded by Mr. Friedman, that the draft be amended to change the word “and” to “or” at page 5, line 7, and that the terms “including appeals” be inserted between “disposition” and “,” at page 5, line 6 of the draft. The committee unanimously approved the motion by a voice vote.

Chair Testin thanked committee members and staff for their service in the committee’s work and notified the members that they would be sent a mail ballot to approve the final draft at some point next week.

Plans for Future Meetings

This was the final meeting of the committee.

Adjournment

The committee adjourned at 10:53 a.m.

[The preceding is a summary of the November 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>.