



**TESTIMONY OF MICAH W. KUBIC**  
**EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF KANSAS**  
**IN SUPPORT OF HB 2137**  
**KANSAS HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE**  
**FEBRUARY 10, 2015**

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Thank you, Chairman Rubin, and members of the committee for affording this opportunity to provide testimony on HB 2137. My name is Micah Kubic and I serve as the executive director of the American Civil Liberties Union of Kansas, a membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas.

The ACLU of Kansas is pleased to support HB 2137, the police and citizen protection act. This bill mandates the use of body cameras by law enforcement officers, but does so in a manner that appropriately balances interests of accountability, privacy, and safety.

Our support for body cameras may be surprising to some, as the ACLU opposes the proliferation of government surveillance, overreach, and invasions of privacy. However, body cameras worn by law enforcement officers are a different matter; their primary function is to allow the public to monitor government and to hold government accountable. Unless government is vigilantly monitored by all of us, and held accountable, it can run amok, trampling on the freedoms we cherish.

- **We support body cameras as a check on government power, as a tool for promoting police accountability, as a strategy for reducing incidences of police misconduct, and as a means of protecting law enforcement officers from false allegations.** Cameras provide real, objective evidence of how interactions between law enforcement officers and members of the public transpire. The knowledge gained can be used to stamp out misconduct, make systemic change, and reinforce or reestablish trust between police and the public.
- **The advantages of body cameras in improving police practices are so clear that we are aware of more than 100 police departments across the country that are implementing, testing, or in the process of purchasing body cameras.** The Wichita Police Department has announced that every officer on patrol will be equipped with a body camera by the end of the 2015, the Topeka Police Department purchased 200 cameras in October 2014, and several other cities across Kansas have also purchased cameras.
- **Law enforcement agencies of widely varying size have determined that body cameras have clear advantages, with even very small departments committing to their use.** Departments implementing body camera programs can be found in every region of the country, in urban, suburban, and rural settings. The cities implementing cameras range from the nation's largest cities—New York and Los Angeles—to smaller towns like

Harlan, Kentucky, population 1,693. Indeed, cities with populations of less than 15,000 are well-represented among police departments currently implementing body camera programs.

Cities with Populations Under 15,000 Currently Implementing Policy Body Cameras	
City	Population
Airway Heights, WA	6,426
Auburn, CA	13,905
Celina, TX	6,744
Cheverly, MD	6,354
Harlan, KY	1,693
Houlton, ME	6,476
Lake Forest Park, WA	13,091
New Carrollton, MD	12,514
Port Washington, WI	11,250
Richland Hills, TX	7,995
Sunbury, OH	4,715

- **HB 2137 does an admirable job of ensuring that accountability, privacy, and safety concerns are addressed by state law.** To safeguard our rights and be effective, body camera use must be guided by good policy. Law enforcement agencies should take into account when officers *must* use cameras, when officers should be *prohibited* from using cameras, when notification should be provided to those being taped, who should have access to footage, and how long recordings should be retained. HB 2137 addresses these issues in ways that balance interests in accountability, privacy, and safety.
- **State law is the most effective means of ensuring that body camera use respects the civil liberties and privacy of all involved.** Although law enforcement agencies should have the ability to implement body camera programs in ways that are appropriate to their local contexts, civil liberties will be best protected by laying a foundation in state law. Without such a foundation, departments could create a patchwork quilt of inconsistent local policies, significantly increasing the possibility that civil liberties would be adversely impacted in some jurisdictions. In addition, controlling access to body camera footage in a way that balances the privacy of law enforcement officers, the privacy of individual members of the public, and the interests of the public at large is best accomplished through changes to the Kansas Open Records Act. Individual departments do not have that discretion. Only the Legislature has the power to affect a change in state open records law; HB 2137 addresses this need very well.

Although we support SB 18, the ACLU does recommend some minor improvements to the bill.

- **We recommend that the window of time before a recording is deemed non-relevant and discarded be expanded from two weeks to four weeks.** Two weeks may be too short of a time for the public and law enforcement to determine whether a given incident was recorded and that footage should be consulted.

- **The current language about when body cameras should be activated—which allows officers to turn the cameras off only in the most personal of moments—is overly intrusive on officers and the public.** We suggest that the language be modified so that video and audio recording functions are only activated when an officer is responding to a call for service, or at the initiation of other law enforcement or investigative encounters. This reduces the amount of footage that departments will need to sift through, reducing the administrative burden on law enforcement. Importantly, it would also ensure that body cameras will not be used for general surveillance of the public, especially of citizens engaging in speech protected by the First Amendment, such as political or policy-oriented rallies.
- **We recommend that the bill be amended so as to allow members of the public to provide anonymous tips.** As currently written, tips provided to law enforcement in person would be recorded by the body camera, potentially endangering the individual providing the tip. We suggest that language be included giving anonymous tipsters the option to have the camera turned off.

The ACLU is proud to support HB 2137. If adopted, it would result in a more accountable government, enhanced protection of constitutionally guaranteed rights, and safer communities.