



**Kansas Association of
Chiefs of Police**
PO Box 780603
Wichita, KS 67278
(316)733-7301



**Kansas Sheriffs
Association**
PO Box 1122
Pittsburg, KS 66762
(620)230-0864



**Kansas Peace Officers
Association**
PO Box 2592
Wichita, KS 67201
(316)722-8433

**Testimony to the House Judiciary Committee
Neutral Testimony Regarding HB2549
February 8, 2012**

Chairman Kinzer and Committee Members,

The Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association is neutral on the basic overall policy question you have been asked to address in this bill. However, we do have concerns with some of the current provisions of the bill.

One of the requirements of the bill is the retention of text messages. We are not sure how that can be accomplished. We are not aware of any technology to allow the user or even the government agency to capture all text messages from cell phones in a central location for retention. While we are aware most service providers retain text messages for various periods of time, we do not believe mechanisms are currently available to allow us to readily retain them ourselves. If such technology exists it will certainly have a cost to implement creating another unfunded mandate on local governments.

Another area of concern in the bill is the addition of the term "public official" throughout the bill, such as found on page 1 line 20. This seems to open the door to retention of information received or sent from a personally owned device. The language on page 1, lines 20-22 appears to attempt to limit this to the retention of such communications made for official purposes. However, that will be very difficult to sort out the records to be retained that are personal and have nothing to do with their official duties and to not retain such messages sent or received from a privately owned device. That seems far reaching to us.

The broad reaching language in the amendments to this bill could easily reach into data transmitted through Criminal Justice Information Systems. This includes information about warrants, arrests without convictions, wanted files, driving history information, criminal records, and sensitive case information. The use of "other electronic records" found on page 1 lines 17 and 18, and on page 2 lines 4-6 seem to apply without exception. Perhaps some language needs to be added to exempt such records by reference to the controlling statutes or rules protecting such information.

The last area of concern may not be a problem. But we need to be sure these amendments do not conflict with other statutes regarding the handling of criminal history information or other legally controlled information such as official use only documents, investigative information, intelligence information, etc. which may be contained on secure encrypted e-mails or text

messages. The mishandling of these types of documents could inadvertently result in the release of information that could jeopardize an investigation or worse, compromise officer safety.

Of course in a criminal investigation such information can be gained through a court subpoena or warrant or through discovery at trial. That only requires the proper foundation being presented to a judge.

We request the committee to proceed cautiously with this bill and to not create a financial burden on local government, to not unintentionally require premature release of sensitive law enforcement documents, to not jeopardize current confidentiality of criminal history records, and to not infringe on private e-mails and text messages on privately owned devices whether used in whole or in part of private communications not related to the person's duties.

Ed Klumpp

Kansas Association of Chiefs of Police, Legislative Committee Chair

Kansas Sheriffs Association. Legislative Liaison

Kansas Peace Officers Association, Legislative Liaison

E-mail: eklumpp@cox.net

Phone: (785) 235-5619

Cell: (785) 640-1102