MEMORANDUM

TO: Honorable Members of the Senate Committee on Judiciary and Public Safety

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: September 17, 2019

SUBJECT: Senate Bill 50 relating to body cameras on law enforcement officers.

As directed, the Legislative Council Study Committee on the Use of Police Body Cameras reviewed law enforcement policy, records retention, liability issues, and the release of data by law enforcement agencies. Senate Bill 50 preserves a county’s individual right to determine if they will utilize body cameras and also lays out requirements for department policy on storage, training, retention, and release of data for those agencies who utilize the technology.

There is one section of the legislation identified by the Wisconsin Counties Association (WCA) where the bill could be improved. On page 4, lines 12-16, the bill states:

Data from a body camera used on a law enforcement officer that record any of the following shall be retained until final disposition on any investigation, case, or complaint to which the data pertain, except as provided in (c) and (d):

1. An encounter that resulted in the death of any individual or actual or alleged physical injury to an individual.

WCA is requesting that the legislation also include a requirement regarding those who are asserting actual or alleged physical injury that they must also request the law enforcement agency, who is the legal custodian of the body camera data, preserve specific data within the 120 days of the event. By including this language in the legislation, the bill would be consistent with Wisconsin Statute §893.80 (1d)(a) which requires notification to the political corporation, governmental subdivision or agency within 120 days after the happening of the event giving rise to the claim. Often times, the Notice of Claim received by the political corporation, governmental subdivision or agency will be provided to their insurer or risk management however, the entity may unintentionally forget to inform the law enforcement agency who is the custodian of the data.

This language is a simple addition to the legislation that will ensure the data’s legal custodian is aware of the Notice of Claim and that they retain the data. WCA respectfully asks for the committee’s consideration of our request.