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**Testimony to the House Judiciary Committee
In Support of HB2065
January 29, 2019**

Chairman Patton and Committee members:

Our Associations strongly support HB2065 and are appreciative of the Kansas League of Municipalities bringing this bill forward to correct the concerns raised by the Court of Appeals with the current provisions in KSA 8-1506. We believe the amendments proposed in this bill are critical to law enforcement operations. We will let the attorneys discuss the legal technicalities of why this solution is needed, but we would like to speak to the practical operational affects.

The current language in question has been in place since at least 1974 and to my knowledge has never been ruled like this by an appellate court. That is not being critical of the court interpretation of the letter of the law, but the decision is changing a significant long-standing provision of law. The proposed changes in HB2065 removes the language the court points to as creating a law enforcement "duty" to "all persons" to protect them from the harmful results of conduct by those not in any form of police control. If this court ruling stands and the provisions in statute are not changed, it will undoubtedly result in agencies and officers simply not pursuing anyone who flees under pretty much any circumstances. I have attached an article demonstrating the unintended consequences of such a result.

It is important to note the proposed changes do not remove the officer's "consequences of reckless disregard for the safety of others." But it does restore the long-standing legal protections for actions that are not in the control of the officers.

The practical results of this ruling places individual officers as well as their agencies in a no-win situation that will most likely result in a large increase in lawsuits and more cases requiring litigation in a jury trial. The costs to law enforcement agencies will be incredible. We recognize that pursuits are inherently dangerous. A great deal of energy and resources has gone into training officers and utilizing developing strategies to reduce those hazards. This includes not only driving and intervention skills, but also the decision-making process and supervisory roles. Pursuit policies are already more restrictive today than ever before.

Decisions of whether to pursue or not pursue, to terminate a pursuit or not terminate a pursuit are complex and must be made in the middle of very high stress, rapidly changing conditions. Those decisions are dependent on many factors such as weather, traffic, the known violations, time of day, geographic conditions, type of area, and many others. Law enforcement cannot control the actions of fleeing drivers nor can we predict what they will or will not do. At the time of a pursuit we typically have little or no knowledge of the persons abilities, impairments, or mental state. There can be some cases where not apprehending a person can create more risk than the attempt to apprehend the person.

All we are asking is to modify the statutes to put the legal platform back to the way it has been interpreted for many, many years.

Ed Klumpp
Legislative Liaison

From an article in the Milwaukee Journal Sentinel, July 18, 2015:

“An innovative, violent gang of drug dealers is exploiting the Milwaukee Police Department's own policy on vehicle pursuits and other rules as they feed an [incessant hunger for heroin](#) across southeastern Wisconsin and contribute to a [surging number of murders in the city](#), newly unsealed court documents show.

The dealers are part of Big Money Addicts, or BMA, one of a number of gangs in Milwaukee that operate on a new, highly mobile business model designed to better deliver drugs. . .”
“One defendant, Darrow Bonner, told police he was involved in three to four "high speeds" every day he was on the street dealing. Bonner, who came from Chicago to sell drugs in Milwaukee, said he knows that police will chase a short distance and then stop if the dealers drive fast enough, according to a criminal complaint charging him with possession of a firearm. [He] said, "police pull behind them attempting to pull them over, and they speed off from the traffic stop," according to the criminal complaint.”