

TESTIMONY OF

Maj. Aaron Hummel, Chief of Staff

Good morning, Madam Chair, and members of the committee. My name is Aaron Hummel and I serve as the chief of staff for the North Dakota Highway Patrol. I am here to provide testimony in support of Senate Bill 2083.

Senate Bill 2083 was introduced at the request of the Highway Patrol with the purpose of exempting certain records that we regularly hold in our possession. These records currently do not have a specific exemption in law allowing agencies to use discretion prior to their release.

Section 1 pertains to images obtained by body cameras or similar devices. Currently, under Subsection 9 of 44-04-18.7, of the North Dakota Century Code, "an image taken with a body camera in a private place is exempt." We are looking to add the following language:

1. "Nude or partially denuded human figures as defined in section 12.1-27.1-03.1". This section of century code specifically defines nudity. Furthermore, in 12.1-27.1-03.3 Creation, possession, or dissemination of sexually expressive images without consent of the individual under certain circumstances could be a criminal offense. There is an exemption in this statute for law enforcement to obtain these images for evidentiary purposes during the scope of employment, but we certainly don't want to be obligated to have to release those records. This change clearly gives agencies the discretion to withhold or redact records containing these images and video.
2. "An individual with serious bodily injury as defined in section 12.1-01-04." This section of century code specifically defines what serious bodily injury is. Currently, there is an exemption in century code for records related to medical treatment provided to an individual from a public entity during an emergency medical response (44-04-18.22). There are instances in law enforcement, however, where there will be images of serious bodily images of individuals who will not immediately be receiving emergency medical treatment, but the images should be treated with the same sensitivity and discretion. This addition will extend that protection to individuals regardless of if medical care is being administered at the time of the image being recorded.
3. "A deceased individual" Currently, there is no statute prohibiting the release of or allowing an agency the discretionary authority to withhold the release of these images unless the deceased is a homicide victim or victim of a fire.

Section 2 addresses images obtained at crash scenes. These images could apply to photographic or video images. In addition to the three areas discussed in **Section 1**, a fourth section be added:

1. "Nude or partially denuded human figures as defined in section 12.1-27.1-03.1."
2. "An individual with serious bodily injury as defined in section 12.1-01-04."
3. "A deceased individual"
4. "A Minor." Currently 39-08-13 exempts specific information pertaining to minors in crash reports, this change would align and allow the release of an image of a minor obtained at a crash scene to be exempt rather than open. Additionally, there are also current exemptions for images of minors, but only if they are a victim of a crime or in crime scene images.

Although these two sections do not single handedly clean up all areas of NDCC pertaining to these types of records, they will close some gaps and provide protections and the ability for agencies to protect the release of records of individuals in their most vulnerable state and ensure that the records are being released to individuals with a bona fide need.

This concludes my testimony. I would appreciate your support for this bill, and I will stand for any questions.