

Secure Commonwealth Panel Sub-Panel

Patrick Henry Building, Richmond, Virginia
June 17, 2015

DRAFT MEETING MINUTES

Members Present:

Brian Moran, Secretary of Public Safety and Homeland Security
Tonya Vincent, Deputy Secretary of Public Safety and Homeland Security
Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security
Adam Thiel, Deputy Secretary of Public Safety and Homeland Security
Senator John Watkins
Dana Schrad, Virginia Association of Chiefs of Police
Nancy Parr, Virginia Association of Commonwealth's Attorneys
Lt. Col. Barry Barnard, Prince William County Police Department
Lynda O'Connell, Virginia Center for Policing Innovation
Vivian Sanchez-Jones, Virginia Latino Advisory Board
Linda Bryant, Attorney General's Office
Fran Ecker, Department of Criminal Justice Services
Banci Tewolde, Department of Planning and Budget
Kevin Carroll, Fraternal Order of Police
David Johnson, Indigent Defense Commission
Carmen Taylor, National Association of the Advancement of Colored People
John Jones, Virginia Sheriff's Association

Members Not Present:

Hassan Aden, International Association of Chiefs of Police
Sheriff Arthur Townsend, Jr., Lunenburg County
Aryn Frazier, University of Virginia, Black Student Alliance
Hudaiah Bhimdi Ahmed, Virginia Asian Advisory Board
Bill Robertson, Virginia Association of Counties
Kimball Payne, Virginia Municipal League
Jay Speer, Virginia Poverty Law Center
Col. Steve Flaherty, Virginia State Police
Deputy Chief John Bell, Virginia Beach Police Department
Wendell Fuller, 100 Black Men of Greater Richmond
Chief Michael Goldsmith, Norfolk Police Department
Chief Douglas Middleton, Henrico Police Department
D.J. Smith, Virginia State Police Association
Professor Henry Chambers, Jr., J.D., University of Richmond School of Law

Chief Alfred Durham, Richmond Police Department
Karen Jackson, Secretary of Technology

Other Participants:

Dave Roberts, International Association of Chiefs of Police

Meeting Convened

Secretary Moran convened the meeting at 1:10 pm and welcomed everyone. He gave a brief summary of the May 7, 2015 meeting.

Co-chair Senator Watkins welcomed everyone.

The May 7th meeting minutes previously emailed to members were briefly discussed. No corrections or modifications were made to the minutes.

The meeting then followed the agenda.

National Takeaways from Cities at Forefront of BWC Implementation – Linda Bryant, Deputy Attorney General, provided a summary of what other localities across the country are doing and considering for body worn cameras (BWC). The information she shared was based on a national conference she recently attended that focused on law enforcement's use of BWC. She indicated that policies are needed for every decision on whether to release footage. There is a consensus that agencies need a records manager for every 250 BWC utilized in order to adequately manage, review and redact footage. Virginia is focusing on the right issues, to include FOIA, privacy, retention and release. She indicated we need to work on developing better retention schedules and provided a handout of existing retention schedules applicable to BWC footage. She noted that redaction is an expensive endeavor. As far as FOIA is concerned, no one agency has mastered it and is an area that needs more work and development. Fifteen states have introduced legislation stating that recordings are not public records.

Mesa, Arizona BWC Evaluation/Recommendations: Retention, Storage, Release Challenges and Recommendations – Lt. Lee Rankin and Lt. Ryan Stokes of the Mesa Police Department shared their experiences and perspectives with the group. (See Attachment A) They had a systemic approach to the decision to utilize BWC that included a pilot program. They asked for volunteers and solicited recruits for the pilot where half the group wore BWC and the other half did not. They tried to match officers' experience and rank for the control group. Their department saw a 40% decrease in the number of complaints against officers wearing BWC compared to the control group and observed use of force complaints drop by 75%. Some of the lessons they learned from the pilot program included:

- It took an average of 1.5 hours for officers to upload and categorize data; they had to decide whether the 1.5 hours would be part of the officers' shift hours or overtime.
- They discovered that using a smart phone application saved uploading and categorizing time, and reduced the overall time from 1.5 hours to 2 minutes per call.

- They realized that some mistakes occurred in categorizing or non-entry of metadata which could lead to liability.
- When they changed the policy of when officers had to turn on BWC from mandatory “on” to discretionary “on/off” they observed a 42% decrease in system activations.
- It costs \$250,000/year to store the metadata on Evidence.com
- They received approximately 200 requests per year that required redaction of sensitive material
 - o Pixelization of just faces, address, license plates, etc. was very expensive
 - o Blurring was cheaper and was available in three levels: light, medium and heavy
- Their policy did not include a requirement for officers to notify the public that BWC were on because Arizona is a one-party consent state; however, not all police departments in Arizona follow this.

Alexandria Perspective: Collaboration, Ethics, Redaction and Funding – Bryan Porter, Commonwealth’s Attorney for the City of Alexandria and Deputy Chief Ed Reyes of the City of Alexandria Police Department provided the following perspective on BWC. Mr. Porter is only interested in videos containing evidence for trials, not all videos of all police encounters with citizens. However, the city attorneys are very interested in all the videos for purposes of defending police actions and the Alexandria City Attorney’s Office asked for more funding to help respond to FOIA requests related to BWC. Mr. Porter noted the start-up costs to Commonwealth’s Attorneys’ offices are significant because costs include storage, licensing fees, and staff time to review and redact data. Mr. Porter also noted that prosecutors have an ethical duty to ensure fair trials for defendants, which impacts his decision on whether to release videos.

Deputy Chief Reyes explained that his department’s pilot program included 40 BWC (30 for patrol officers and 10 for auxiliary officers). The pilot lasted 6 to 12 months. He emphasized that his department will NOT go live with BWC without policies in place; failures with BWC and other operational endeavors are due to lack of policies. The biggest concern he has about BWC is data storage and retention. They are waiting for guidance from the General Assembly and the Library of Virginia.

Fredericksburg Perspective: Discussion of High Profile Incidents – Chief David Nye of the Fredericksburg Police Department and La Bravia Jenkins, Commonwealth’s Attorney for Fredericksburg shared their insight on a recent high profile incident in which officers wore BWC. They played a video of a situation in which an officer did not respond appropriately with his use of force. Together they decided to release portions of the video to the public in order to be transparent.

FOIA/Privacy Work Group Update – Maria Everette, FOIA Advisory Council Executive Director and Linda Bryant, Deputy Attorney General shared the following recommendations with the group:

- Create a FOIA subgroup

- Distinguish between public access and other access (criminal and civil litigation)
- Secure revenue source for storage retention and redaction
- Do not create mandates on the use of BWC; let it be discretionary for departments to decide
- Clarification is needed on the Government Data Collection and Dissemination Act's applicability to law enforcement

Library of Virginia – Glenn Smith, a Records Management Analyst with the Library of Virginia presented a power point outlining the basic records management timelines. (See Attachment B).

Discussion and Recommendations - Much of the discussion focused on whether there was a need for another meeting and when DCJS would be able to have a completed model policy for the sub-panel to review. Director Ecker stated that DCJS would begin working on the model policy.

Public Comment

City Attorney for Alexandria, Mary O'Donnell stated that many complaints against local law enforcement are not criminal in nature. Local government's ability to properly handle civil issues is an important concern. Additionally, citizens can sue officers two years after an incident and localities should be able to retain body-worn camera data at least that long.

Closing Remarks

Secretary Moran and Senator Watkins provided closing remarks and informed the sub-panel that any future meeting dates would be sent to them.

Meeting Adjourned

The meeting adjourned at approximately 4:30 pm.