

Secure Commonwealth Panel Sub-Panel

Senate Room 3, The Capitol, Richmond, Virginia
May 7, 2015

DRAFT MEETING MINUTES

Members Present:

Hassan Aden, International Association of Chiefs of Police
Sheriff Arthur Townsend, Jr., Lunenburg County
Lt. Col. Barry Barnard, Policy Executive Research Forum
Aryn Frazier, University of Virginia, Black Student Alliance
Hudaidah Bhimdi Ahmed, Virginia Asian Advisory Board
Dana Schrad, Virginia Association of Chiefs of Police
Nancy Parr, Virginia Association of Commonwealth's Attorneys
Bill Robertson, Virginia Association of Counties
Lynda O'Connell, Virginia Center for Policing Innovation
Vivian Sanchez-Jones, Virginia Latino Advisory Board
Kimball Payne, Virginia Municipal League
Jay Speer, Virginia Poverty Law Center
Col. Steve Flaherty, Virginia State Police
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
Deputy Chief John Bell, Virginia Beach Police Department
Wendell Fuller, 100 Black Men of Greater Richmond
Linda Bryant, Attorney General's Office
Chief Michael Goldsmith, Norfolk Police Department
Chief Douglas Middleton, Henrico Police Department
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
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
John Jones, Virginia Sheriff's Association
Karen Jackson, Secretary of Technology

Members Not Present:

Carmen Taylor, National Association of the Advancement of Colored People

Other Participants:

Dave Roberts, International Association of Chiefs of Police

Meeting Convened

Secretary Moran convened the meeting at 1:07pm and welcomed everyone. He gave a brief summary of the April 21, 2015 meeting, which he concluded that the group came to a consensus that body-worn cameras should be used in the Commonwealth.

Co-chairs Senator Watkins and Deputy Chief Bell welcomed everyone. Senator Watkins recognized Maria Everett, Executive Director of Virginia's Freedom of Information Advisory Council, whom he invited to attend.

The April 21st meeting minutes that had been previously emailed to members were briefly discussed. No corrections or modifications were made to the minutes.

The meeting then followed the agenda.

Body Worn Camera Demonstration – Lieutenant Dennis O'Keefe from the Henrico County Police Division (HPD) gave a presentation and explanation of the cameras worn by officers in Henrico County. His division started looking at cameras about two years ago and recently signed a contract. In March 2015, HPD purchased 150 cameras and will be acquiring 150 more. 100 cameras are currently used in the field. He explained several options for where the body cameras can be mounted and the pros/cons of each location. He suggested not wearing the cameras on the epaulette of the uniform as the cameras can easily shift and not capture the same view as the officer. His cameras have a 12-hour battery life span. The Henrico Police Division's policy allows officers to turn the cameras on and off but the policy accounts for privacy concerns and allows officers to turn the cameras off when speaking to victims, visiting citizen's homes and hospitals, and taking personal breaks. Officers are required to turn them on for enforcement actions, which include traffic encounters. One of the rationales for allowing officers to turn the cameras on and off was cost concerns – the more the cameras are turned on, the more data is collected and stored, and the higher the cost to maintain the data.

Lt. O'Keefe shared two videos with the panel and explained that you do not want a camera that sees better than the human eye because upon review, questions will arise as to why the camera captured something that the officer did not see. If the human eye is incapable of seeing something, the officer should not be held to a higher standard of seeing something only visible to technology.

Lt. O'Keefe indicated that HPD purchased 20 terabytes of storage in March and has used 500 gigabytes thus far.

Several questions were asked about the mechanics of the cameras, including how to turn them on/off, the 30 second buffer, recording length and upload time.

When asked, Lt. O'Keefe shared that both citizen and officer behavior changed by using cameras. One officer, after watching video footage of himself, did not realize how he sounded.

Questions were asked about the HPD's policy of recording citizen encounters. The policy says officers should notify citizens when they are being recording and should turn the cameras off when asked by citizens.

HPD uses evidence.com to store the data, which is also used to share the footage with prosecutors. Redactions can be done to the data, but the process is slow and involves frame by frame redaction. The original footage is kept intact and not redacted. An audit trail is created anytime the data is accessed and redacted.

The cameras cost \$599 each but HPD received a discount and paid \$299 each, plus \$199 for mounting equipment per camera. HPD used asset forfeiture funds to pay for the initial purchase of cameras but has a budget allocation to pay for additional costs. HPD has been assured by county officials that it will fund this new line item in the budget.

DOJ/COPS/PERF Body Worn Camera Program Report – Hassan Aden with the IACP gave an update on this program. He shared the IACP manual/report with the group and encouraged everyone to read it which will help localities and states not to recreate the wheel when it comes to exploring implementation of body-worn cameras.

He shared a short video of a shoot-out between a suspect and law enforcement, which demonstrated why cameras should not be worn on officers' epaulettes.

He suggested members read the President's interim Task Force report on body-worn cameras.

Northern Virginia Regional BWC Working Group Overview – Lt. Colonel Barnard provided a summary of the work this group is doing in Northern Virginia. The group consists of 21 law enforcement agencies in the Northern Virginia region which met on April 21, the same day the sub-panel met. The working group discussed (1) data and storage (2) FOIA (3) which agencies currently use body-worn cameras (4) cost of storage (5) hosting an "Industry Day." The Industry Day is tentatively planned for June 16 or 17 and will have 25 vendors from various industries, including companies selling body-worn cameras, cloud storage, etc.

Virginia Data Retention Survey Results – Dana Schrad, the Executive Director of the Virginia Association of Chiefs of Police gave a presentation on the survey she and John Jones of the Virginia Sheriff's Association developed. The survey focused on data retention issues and consisted of seven questions. The survey was sent to 375 agencies and 294 responded; this response rate of 78% is very high. A copy of the presentation is attached as **Attachment A**.

Facilitated Discussion and Questions/Recommendations

Deputy Secretary Victoria Cochran facilitated a discussion focusing on ten issues as described in a handout titled Policies and Procedures. **See Attachment B.**

Much of the discussion focused on the concern of members that the General Assembly would mandate use of the body-worn cameras by all law enforcement in the Commonwealth. Many members feared the implementation of an unfunded mandate that did not allow for localities to identify local policies and guidelines for use of cameras. Others expressed their desire for this group to remain focused on high level issues rather than on issues best dealt with at the local level.

Consensus was reached that model policies for use of body-worn cameras should address (1) the purpose and use of body-worn cameras (2) procedures for use and deployment (3) restrictions on use and (4) officer and supervisory responsibilities.

Consensus was reached that the Commonwealth promotes an overarching policy that body-worn cameras can improve accountability, transparency and public trust in law enforcement.

Concerns were raised by some members regarding potential liability if body cameras are adopted as a best practice and localities are not able to afford them.

Discussion then turned to financial considerations of utilizing body-worn cameras. Many members recognized that funding sources are limited and that some grants and asset forfeiture sources do not provide long-term sustainable funding streams.

Consensus was reached that the members support sustainable funding sources for body-worn cameras, which are a significant tool for law enforcement, the Commonwealth and localities to improve accountability, transparency and public trust.

Members then briefly talked about data retention and storage but decided to wait until the FOIA sub-group was able to share information with the group.

The creation of public disclosure policies was also briefly discussed and tabled until the FOIA sub-group met and provided additional information.

As the meeting drew to a close, the members agreed that a third meeting was necessary to address the remaining five policy considerations.

Public Comment

Claire Gastañaga, spoke about the ACLU's position and provided two handouts to members, which are attached as Attachments C and D.

Closing Remarks

Senator Watkins determined that the members would address items #5 through #10 at the next sub-panel meeting.

Senator Watkins convened a small group to examine and make recommendations concerning FOIA implications of departments using body-worn cameras and public disclosure policies; the group will consist of Senator Watkins, Maria Everett, and Linda Bryant.

Meeting Adjourned

The meeting adjourned at approximately 4:45pm.

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