

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 633
Judiciary

(Delegate Conaway)

Baltimore City - Law Enforcement Officers - Video Cameras

This bill requires a law enforcement officer of the Baltimore City Police Department (BCPD) to wear a video camera affixed to the officer's uniform while on duty. The requirement does not apply to a law enforcement officer who is on detective duty. The camera must record any interaction between a law enforcement officer and a member of the public. The video camera may not make an audio recording. BCPD must preserve a video recording made pursuant to the bill for at least 30 calendar days. BCPD is required to develop policies and procedures to execute the bill's provisions.

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City expenditures increase by \$835,560 in FY 2015 for the purchase of cameras, accessories, and data storage. Future year costs reflect continuing data storage costs of \$65,560 annually, plus an additional \$110,000 annually for accessory equipment. Replacement cameras are assumed to be needed in FY 2020. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Under the Public Safety Article, a "law enforcement officer" means an individual who in an official capacity is authorized by law to make arrests. It includes members of BCPD. It does not include an individual who serves at the pleasure of the Police Commissioner of Baltimore City or an officer who is in probationary status on

initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made.

Under The Maryland Wiretapping and Electronic Surveillance Act (Wiretap Act), it is unlawful to willfully intercept any wire, oral, or electronic communication. Under the Act, "intercept" is defined, in part, as "the... acquisition of the contents of any... oral communication through the use of any... device." Therefore, the Wiretap Act does not regulate a video recording that does not contain an audio component. The statute does authorize the interception of an oral communication if all participants have given prior consent (sometimes called "two-party consent"). Maryland is 1 of 12 two-party consent states, most of which spell out clearly that the consent is required only in circumstances where there is a "reasonable expectation of privacy."

The Act does provide specified exceptions, including one for a law enforcement officer who intercepts an oral communication in the regular course of the officer's duty, so long as the officer (1) initially lawfully detained a vehicle during a criminal investigation or for a traffic violation; (2) is a party to the oral communication; (3) has been identified as a law enforcement officer to the other parties to the communication prior to any interception; (4) informs all other parties to the communication of the interception at the beginning of the communication; and (5) makes the interception as part of a video tape recording.

Each interception in violation of the Wiretap Act may be prosecuted as a felony, punishable by up to five years imprisonment, and/or a \$10,000 fine. A person who is the victim of a violation of the Wiretap Act has a civil cause of action against the wire tapper for damages, attorney's fees, and litigation costs.

While the term detective duty is not defined under the bill, there is reference to "detective duty" in both the Public Safety Article (under provisions relating to Special Police Officers) and the Natural Resources Article (under provisions relating to the wearing of a badge).

Background: Several states and local governments are considering requiring police officers to wear cameras as part of the uniform, usually attached on glasses or headgear. Although many police vehicles are equipped with cameras, incidents that take place away from the vehicle are not captured. In Maryland, only the Laurel Police Department has officers that wear cameras. Proponents have said the video recordings are valuable training tools, assist officers in writing accurate reports, and can be used as evidence. Additionally, the Laurel Police Department reports that the video cameras have led to a reduction in complaints against officers. Police departments in California, New Mexico, and Texas use wearable cameras.

The cameras and related equipment, including data storage, in current use in the City of Laurel are the AXON flex units available through TASER International, Inc. The cost for each camera was about \$500. The City of Laurel has been outfitting its full patrol force at a rate of about 25% per year, with about 50% (25 officers) currently outfitted with an AXON unit. While the operational life of each camera is expected to be five years, the City of Laurel budgets for cameras on a three-year basis. The current three-year costs for each law enforcement body camera in Laurel is about \$2,000, which includes the camera, storage, and data uploading. The City of Laurel has an annual contract for data storage in the amount of \$1,050 for up to 300 gigabytes of storage. Laurel officers patrol on 10-hour shifts and download the data from each camera at the end of each shift, a process that takes about 30 minutes. Stored data is maintained for a period of six months, unless known to be needed for a criminal trial or related matters. The Laurel video units *do* record audio. The Laurel Police Department also reports that in March, TASER International, Inc. will be offering a mobile charger and download station that will work with in-car computers.

According to the National Conference of State Legislatures, the following legislation is pending in New Hampshire and New York relating to video cameras and law enforcement officers:

- New Hampshire – 1575-FN-A of 2014 would require each uniformed law enforcement officer of the Division of State Police to wear an operating camera with a microphone for audio capture at all times when the officer is interacting with the public in his or her official capacity.
- New York – A8243-2013 would direct the Commissioner of Criminal Justice Services to establish a pilot program for the use of body-worn video recording equipment on certain police officers in New York City.

The U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ), produced *A Primer on Body-Worn Cameras for Law Enforcement* in September 2012. The report states that body-worn cameras (BWCs) can be attached to various body areas, including the head (by helmet, glasses, or other means), or to the body (by pocket, badge, or other means). BWCs have the capability to record officer interactions that previously could only be captured by in-car or interrogation room camera systems.

NIJ also states that there are many specification issues to consider before purchasing a camera system. The system requirements and trade-offs are dependent on the intended use, budget, unit cost, interoperability, operating environment, and other factors. According to NIJ, specifications to consider include battery life, video quality, recording limits, night recording capabilities, camera focal width, camera placement, and radio

integration capability. NIJ also includes audio recording capabilities under specifications to consider.

Local Expenditures: It is assumed that cameras for BCPD are made through TASER International, Inc., with start-up costs as follows:

- AXON flex camera: purchase price of \$500 per camera;
- accessories for each camera (mounting, batteries, and cable, etc.): \$200;
- annual evidence collection and storage (“I-Cloud”): \$9.95 per officer per month for six months = \$59.60; and
- total first-year costs per officer = \$759.60.

Although the bill requires data retention for a minimum of 30 days (one month), the Department of Legislative Services (DLS) assumes that retention for six months (per current practice in Laurel) is likely more reasonable for BCPD. Annual future year costs per camera for replacement accessories, including batteries, are estimated at \$100. TASER International, Inc. provides any training assistance deemed necessary. Based on the Laurel Police Department’s actual experience, information technology compatibility issues are assumed to be minimal.

Baltimore City assumes that about 1,100 of its 1,500 personnel are subject to the bill’s video camera requirement. Accordingly, Baltimore City’s fiscal 2015 expenditures increase by about \$770,000 (1,100 x \$700) for the purchase of cameras and accessories, plus an additional \$65,560 (1,100 x \$59.60) for data storage. Thus, total first year costs are estimated at \$835,560. Out-year equipment costs total about \$100 per camera, or \$110,000 annually. Camera replacements are assumed to be needed in fiscal 2020.

Baltimore City advises that BCPD may choose to retain camera data for up to three years. If BCPD chooses to do so, annual data storage costs are significantly higher than the costs estimated above.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Baltimore City, City of Laurel, Governor’s Office of Crime Control and Prevention, Department of Public Safety and Correctional Services, National Conference of State Legislatures, U.S. Department of Justice, Department of Legislative Services

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