Mayor Rawlings-Blake's Working Group on the Use and Implementation of Body-Worn Cameras

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Draft Recommendations
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Finally, the Working Group is appreciative for the assistance of Stephanie Robinson, Esq. in staffing the Working Group, providing extensive data and assisting in the writing and editing of this report.

EXECUTIVE SUMMARY

The Baltimore City Working Group on the Use and Implementation of Body-Worn Cameras (”Working Group”) was appointed by Mayor Stephanie Rawlings-Blake on October 17, 2014. Mayor Rawlings-Blake charged the Working Group to study and make recommendations concerning the potential benefits and limitations of body-worn cameras, as well as to analyze community perspectives, privacy and legal ramifications, and police operations and policy. This endeavor involved the complex subject matters of privacy and constitutional limits on government surveillance, data collection, storage, operational practices, procurement and cost. Over the course of the next four (4) months, the Working Group held public meetings where it received presentations by experts in various fields and by police departments implementing body-worn camera programs, reviewed research conducted by third parties, public discourse and media reports, and applied the expertise of its diverse members to engage in roundtable discussions.

Despite the limited statistical data and study results available, the Working Group was able to identify and establish key areas of significance and address them. It is the consensus of the Working Group that body-worn cameras, while not a panacea, can be important law enforcement tools for both fighting crime and fostering trust between the residents of Baltimore and the Baltimore Police Department (“BPD”).

Successful long-term implementation of the program requires thoughtful deliberation and clear policies. To allow for efficient and thorough consideration of the issues presented, the Working Group established four (4) subgroups based upon the expertise of its members: Community Relations, Legal, Policies and Costs/Technology. These subgroups, under the leadership of Coordinators, analyzed issues relating to community concerns, privacy, data collection, storage, operation practices, procurement and cost. The Honorable Brandon M. Scott served as the Coordinator for the Community Relations Subgroup. David E. Ralph, Esquire served as the Coordinator for the Legal Subgroup. Suzanne Sangree, Esquire served as the Coordinator for the Policies Subgroup. Kirsten C. Silveira served as the Coordinator for the Cost & Technology Subgroup. The Subgroups brought their respective findings to the Working Group for robust discussions and analysis.

The Working Group spent significant time carefully developing policy recommendations aimed to assist law enforcement functions while furthering transparency and accountability for the BPD and protecting citizens’ privacy concerns and First Amendment protected activity. The Working Group offers for review and consideration policy recommendations as well as guidance concerning procurement of body worn camera technology and cost estimates for a BPD-wide program. A highlight of the Working Group’s recommendations is as follows:

PILOT Program

- A pilot program is necessary. A pilot would permit thorough review of different body-worn camera models and storage capabilities for ease of use and efficiency. Moreover, it would give the BPD the opportunity to fully vet policies and practices. Finally, it appears to be the most cost efficient way to plan for a full roll out of a body-worn camera

program throughout BPD. It is recommended that this pilot be conducted with high crime/high call volume districts or units participating.[1] (See Recommendation #1).

Buffer Period for Body-Worn Cameras

- Body-worn cameras should have a buffer period so that once a camera is activated, it will preserve footage from the buffer period prior to camera activation and going forward. At least one minute of buffer would be optimal. (See Recommendation #7)

Promulgation of General Orders

- General Orders should be promulgated setting forth specific instructions for how the body-worn camera program is to be implemented and permitting internal discipline in instances in which officers fail to comply with the General Orders. (See Recommendation #2,).

Training

- Officers and supervisors should be trained regarding how to implement the body-worn camera program, including how to operate the camera, when it must be turned on (and when the subject of the filming has discretion to have the camera turned off, how officers should advise those being filmed and document their exercise of discretion), how to tag footage, how to download data, how to document equipment malfunctions and obtain replacement and/or repair, when footage may and may not be reviewed and when it should or must be reviewed. (See Recommendation #4).

- Training should include scenario-based training replicating situations that officers might encounter in the field. Refresher training should be offered at least once a year through in-service training and/or roll call training. (See Recommendation #5).

Body-Worn Camera Recording Protocols

- Uniformed police officers should have cameras recording during every interaction with the public and during every exercise of police powers, except when in a consensual interaction where a citizen requests that the camera be turned off. (See Recommendation #6).

- When a police officer with a body-worn camera commences an encounter with a person (a) reporting a crime, (b) providing information regarding a crime or ongoing police investigation, (c) claiming to be the victim of a crime, or (d) who wishes to speak with the officer and who is free to terminate the encounter, the officer shall immediately

[1] As noted *infra*, high crime/high call volume areas are defined as "specific geographic areas where crime and police calls for service (CFS) are concentrated at their highest levels." Both high crime/high call volume areas are tracked by crime and call type, measured individually or grouped in the categories of Property Crime or Violent Crime.

provide notice that the body-worn camera is recording and provide the person with the option to have the camera turned off. A request to turn off the body-worn camera should be recorded on the camera prior to turning it off. (See Recommendation #13).

- In order to film the basis for a stop or on-sight arrest, an officer should turn on his or her camera as soon as he or she observes activity that might justify a stop or arrest. (See Recommendation #7).

- An officer with a body-worn camera shall notify video subjects that they are being recorded as close to the inception of the encounter as reasonably possible. Once activated, the camera should remain in recording mode until the conclusion of an incident/encounter, the officer recording has left the scene, or a supervisor has authorized (on camera) that a recording may cease. (See Recommendation #11 and #12).

- An officer should record on camera or in writing instances in which he or she fails to record an event or activity that is required, by General Order, to be recorded. Official incident reports should note that a body-worn camera was filming during the incident. (See Recommendation #8).

- Private residences should not be treated any differently than other property for purposes of recording. If a police officer has legal justification to be there, the officer has justification to film. However, there may be instances in which a resident may ask an officer to deactivate the body worn camera and an officer would be obliged to do so. (See Recommendation #14).

- When responding to a call for police assistance to a residential address, it is recommended that the officer should arrive with camera on, and notify those being filmed of that fact as soon as reasonably possible. (See Recommendation #15).

- Officers shall not record private conversations with confidential informants. (See Recommendation #19).

Tagging of Body-Worn Camera Data

- Tagging, or marking of video, serves as a method to reference data at a later date. Optimally, tagging should include: name of officer, date, time, GPS coordinates for each image; any CC# or other police report number associated with the images; type of incident (citizen contact, *Terry* stop, frisk, arrest, use of force, consensual search, non-consensual search, search warrant, arrest warrant, etc.), as well as a tag or flag indicating potential privacy concerns regarding the content of the video. Multiple tags should be supported. Tagging should not include the name of any civilian subject of the video. (See Recommendation #24).

Access to Body Worn Camera Data

- Access to camera data should be limited and controlled and those who violate any policies regarding the use of recorded data should be subject to discipline. To maintain the integrity of the program, it is recommended that any data storage system used have the capability to lock out access to specific camera data in order to control access. (See Recommendation #25 and #34).

Retention of Body Worn Camera Data

- It is recommended that camera data be retained four (4) years and then destroyed, unless subject to a litigation hold, related to an administrative investigation or associated with a criminal investigation. Some camera data should be copied for preservation as evidence in investigations or prosecutions for an extended period of time. (See Recommendation #25 and #26).

Care of Body Worn Camera Equipment

- Each officer should be responsible for the care and operation of his or her camera and for downloading the data filmed at the end of each shift and tagging it as directed. (See Recommendation #20).

- When equipment is inoperable, it should be exchanged for operable equipment at the earliest opportunity. (BPD may want to consider establishing a central location, open 24 hours a day/7 days a week, where officers can swap out camera equipment as needed.) (See Recommendation #21).

Officer Review of Body-Worn Camera Data

- Police officers should be able to review their own video footage to assist in complete and accurate report writing for routine matters. (See Recommendations generally).

- For non-routine matters, the majority view is that a police officer should be required to make a statement concerning an incident without first reviewing his or her camera footage of the incident. The minority view is that police officers should be allowed to review footage before making any statement or writing any report. (See Recommendation #29).

- Prior to writing an Administrative Report or making an administratively compelled statement, officers should only view their own footage and may not view the footage of other officers. (See Recommendation #30).

Prohibited Uses of Camera Data

- Footage recorded by police officers in the course of their duties should not be used for personal, non-business related uses. Sworn and civilian personnel should absolutely be

prohibited from uploading data onto social media websites or otherwise released to the public, except as authorized by BPD. (See Recommendation #35).

- Audio/video data should be prohibited from being used, in whole or in part, to create a database of mug shots or employed in photo arrays, or otherwise searched via facial or voice recognition software. (See Recommendation #36).

- Unauthorized access or release of data should be forbidden. (See Recommendation #37).

Ongoing Evaluation and Review of Body-Worn Camera Program

- An ongoing, biannual review of the body-worn camera program is recommended to fully assess results and effectiveness. (See Recommendation #40).

- The BPD should collect statistical data concerning camera documented uses of force, internal officer disciplinary convictions, and civilian complaints. The Baltimore City Law Department should collect data on the number of civil suits against the BPD and payouts to plaintiffs when body camera footage documented the incident and the State's Attorneys' Office should collect data on convictions obtained when body–worn camera data was used as evidence. (See Recommendation #38).

- The BPD and the City, with feedback from the Baltimore City State's Attorney's Office, should evaluate the fiscal impact of implementing a body-worn camera program, and the utility and efficacy of the body-worn camera program. (See Recommendation #39).

Additionally, a few points are worth mentioning. The Working Group has determined concrete data on the pros and cons of body-worn cameras is quite limited. Currently, no study documents citizens' views of body-worn cameras. As such, the Working Group's consideration of citizens' perspectives was based upon anecdotal evidence.

The Working Group has determined that implementation of a body-worn camera program may implicate Maryland's Public Information Act (PIA). Any body-worn camera program implemented should have clear policies that are consistent with best practices and comply with the PIA for persons of interest, third party requests and bulk requests. The PIA gives the general public broad access to public government records – which could include films and recordings from body cameras. Also, it is important to keep in mind that the costs associated with review, redaction and production of data as part of a body-worn camera program may pose substantial challenges.

The Working Group has determined that implementation of a body-worn camera program may implicate Maryland's Wiretap Law. The Working Group believes there is generally not a "reasonable expectation of privacy" in communications with police officers exercising their law enforcement authority, particularly when the recording is conducted openly. That said, the Working Group believes the Wiretap Law should be amended to reflect the unique nature of body worn cameras and specifically allow for their use (similar to what was done for dashboard cameras).

The Working Group also considered that there may be times when officers need to exercise their authority during a demonstration such as when participants are breaking the law. The Working Group agreed that policies should include provisions to ensure that any stored camera footage of constitutionally protected activities will not be used to identify persons present at such activities who are not suspected of having engaged in illegal behavior. Policy language should be developed that will limit when recording takes place at constitutionally protected activities, such as demonstrations, protests, marches, attendance at religious functions, meetings, and similar activities.

The Working Group anticipates that costs for body worn cameras may be significant. It is projected that the implementation of a body-worn camera program will cost between **$5,501,674** and **$7,938,275** in Year One. It is projected that the implementation of a body-worn camera program will have a ***fixed cost*** of **$1,345,180** in Year One. Cost will be variable based on the number of cameras deployed, video recorded and requests for information received by the BPD. Redaction costs can consume as much as 21% of the Year One costs, and are considered the greatest variable; the conservative estimate in Year One is **$1,747,000**.

The Working Group recognizes that it does not offer recommendations on how to resolve every issue that a body camera program entails. The Police Commissioner will need to promulgate General Orders to effectuate a program; BPD and the Baltimore City State's Attorney will need to collaborate to determine how the State's Attorney's Office will access body camera data for criminal prosecutions. Likewise, the Public Defender's Office for District 8, given the number of defendants it represents, may need to address its capacity to review body camera data when used in criminal investigations and prosecutions. A body camera program will have significant budget impact for each of these agencies.

There are several policy issues that the Working Group believes merit further study, public comment, and stakeholder consultations before specific policies should be promulgated. These include filming of officer responses to reports of sexual assaults and protection of traumatized victims of such assaults; the ability to prosecute those who perpetrated such assaults; police filming inside hospitals when called there to interview injured crime victims or witnesses or when called to respond to a crime in progress on hospital grounds; and whether the State's Attorney's office should have its own direct access to the BPD body camera data. It is believed additional study is required to determine the extent of the BPD's duty to expunge camera data when a court issues an expungement order.

Issues concerning filming of First Amendment activity and issues concerning use of cameras when officers are undercover or off duty but within the City limits should be addressed by BPD policy. However, the Working Group was not able to formulate definitive and specific recommendations on these issues, as it felt the BPD should further study the issue.

Finally, while this report consists of the collective recommendations of the Working Group, further data, information from a PILOT program, and actual field experience, will need to be considered by the BPD in ultimately developing the Department's body-worn camera program.

The full report follows.

INTRODUCTION

Public safety depends upon close collaboration between the community and its police force. Recent deaths of African-American citizens in custody across the nation, including Eric Garner (Staten Island, New York), Sean Bell (Queens, New York), Oscar Grant (Oakland, California), and Michael Brown (Ferguson, Missouri), along with publicized incidents of assault of citizens by police officers in Baltimore, have undermined trust between the public and the police. These events have ignited a national conversation about how police powers can be exercised with more accountability and transparency.

In public safety forums throughout Baltimore City, Mayor Stephanie Rawlings-Blake (and Baltimore Police Commissioner Anthony Batts) heard citizens' concerns about public safety and the use of force by law enforcement. However, concerns about public safety and the use of force are not limited to Baltimore as cities across the country have faced these same concerns. Some believe the problem is a result of historic disparate and sometimes brutal treatment of citizens by law enforcement officials, as well as a real or perceived lack of transparency and accountability for police misconduct.

While the vast majority of officers today works to protect and serve all citizens, the actions of a few can tarnish the work of the many. Thus, members of the public, public interest organizations and governmental officials—including Mayor Rawlings-Blake and Police Commissioner Batts—have called for body-worn cameras for the BPD.

Body worn cameras are a relatively new technology that may be worn as part of an officer's uniform, on glasses, lapels and collars, to document, via audio and video, an officer's investigative and enforcement activities and interactions with members of the public. Preliminary results from other jurisdictions indicate cameras improve public confidence in the police, provide prosecutors with the best evidence for court proceedings, improve officer safety, facilitate on-going officer training, accurately document events during the course of an incident or police encounter, and help determine the accuracy of complaints made against the police. The Working Group believes that since people have the propensity to act better when on camera, body-worn cameras could significantly assist in improving the relationship of the community with its police.

In an effort to assess the benefits and drawbacks of the use of this technology in Baltimore, Mayor Rawlings-Blake on October 17, 2014, appointed a 16 member Working Group including clergy, attorneys, lawmakers, community advocates, BPD command staff, financial analysts and IT specialists, to conduct an independent review of body worn cameras and issues related to the use of same by the BPD. Under the leadership of co-chairs James R. Benjamin, Jr., Esquire and Pastor Jamal H. Bryant, the Working Group was unrestricted in the development of its methodology and analysis.

The Working Group independently reviewed copious amounts of information, including numerous news stories on body-worn cameras. Two significant reports, *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*, commonly referred to as the

"PERF Report" and *Police Officer Body-Worn Cameras: Assessing the Evidence* written by Michael White,[2] served as important foundations for the Working Group's review of the issues.

The Working Group conducted meetings that were open to the public during which they communicated with and received information from key persons in law enforcement (including Police Commissioner Batts), IT security, and legal professionals. In addition, a rank and file police officer from the Laurel City (Maryland) Police Department shared helpful information with the Working Group concerning his department's use of body worn cameras and how the use of the body worn camera helped strengthen relations between the community and his department's officers. Also, representatives from police departments in Philadelphia, Pennsylvania and Washington, D.C. – two (2) larger cities with police departments that have recently implemented pilot body-worn camera programs – shared useful information with the Working Group about potential strategies for utilizing resources to manage camera data and requests for information under public information laws.[3]

To allow for efficient and thorough consideration of the issues presented, the Working Group established four (4) subgroups based upon the expertise of its members: Community Relations, Legal, Policies and Costs/Technology. These subgroups, under the leadership of Coordinators, analyzed issues relating to community concerns, privacy, data collection, storage, operation practices, procurement and cost. The Honorable Brandon M. Scott served as the Coordinator for the Community Relations Subgroup. David E. Ralph, Esquire served as the Coordinator for the Legal Subgroup. Suzanne Sangree, Esquire served as the Coordinator for the Policies Subgroup. Kirsten C. Silveira served as the Coordinator for the Cost & Technology Subgroup. The Subgroups brought their respective findings to the Working Group for robust discussions and analysis.[4]

After thorough analysis of the issues, the Working Group puts forth the following recommendations with unanimous support, except as to one recommendation for which there is a majority view and a minority view. The Working Group did not conduct empirical studies or surveys.

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[2] Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum 2014 *Implementing a Body-Worn Camera Program Recommendations and Lessons Learned*. Washington, D.C. Office of Community Oriented Policing Services and White, Michael D. 2014. *Police Officer Body-Worn Cameras: Assessing the Evidence*, Washington, D.C.: Office of Community Oriented Policing Services.

[3] The Philadelphia Police Department began its pilot on December 1, 2014. The Philadelphia Police Department, at the time of its presentation to the Working Group, used 40 officers who volunteered to participate in the pilot. . Metropolitan Police Department of the District of Columbia began its pilot program with six cameras on October 1, 2014, and within two (2) months had 200 cameras within its 4,000 member department. Anne Grant, Coordinator for the D.C. Metropolitan Police Department, advised the Working Group that ultimately the Metropolitan Police Department's training academy and 16 officers in each precinct had body–worn cameras.

[4] While all meetings of the Working Group were subject to the Open Meeting Act, the Subgroup conferences were not.

The Working Group recognizes that body-worn cameras are not a panacea and cannot, by themselves, ensure good decision-making, appropriate use of law enforcement powers, or reduce false claims against police or litigation costs. However, the Working Group unanimously concludes that body-worn cameras can be an effective tool to foster transparency and accountability in policing, to continue rebuilding trust between the community and police, and to ensure public safety. The Working Group further concludes that a careless or merely reflexive establishment of a body-worn camera program would only serve to undermine the great possibilities such a tool holds.

The Working Group's report is presented in three (3) parts. Part One of this report sets forth the benefits, expectations and limitations of body-worn cameras as determined by the Working Group. Part Two consists of policies the Working Group agreed are, at present, a reflection of best practices or might otherwise be useful. Additionally, there are recommendations for further consideration of some points which could not be resolved due to limitations on empirical data or the need for practical experience by the BPD with body-worn cameras. Part Three discusses costs and financial assumptions that should be considered as part of the procurement process for purposes of implementing a body-worn camera program in Baltimore.

The three (3) parts of the Working Group's report constitute the Working Group's collective recommendations. These recommendations, along with further data and information from a pilot program, actual field experience, and operational concerns, will need to be considered by BPD in developing a final body-worn camera program.

PART ONE

Transparency

There is a place for body-worn cameras as a tool in law enforcement. However, body-worn cameras may not fully capture what an officer sees, hears or does due to limitations in technology and the nature of police work. An officer, by a twist of the head may observe something in his or her peripheral vision that a camera, whether attached to the hat, glasses or lapel of a uniform, cannot. The audio capabilities of a camera may be limited by the sound of static as an officer runs. In the chaos of chasing a suspect, a camera may become inoperable or fall off.

That said, body-worn cameras can be a useful tool to assist in the transparency of police work by providing, within the aforementioned limitations, a record of activity or interactions. A survey conducted by Police Executive Research Forum (PERF) indicates that areas in which body-worn cameras are used have increased transparency and helped resolve questions centered on the interactions of members of their departments with the public. The agencies surveyed reported fewer complaints and improved interactions between the citizens and the police.

A similar survey conducted by the Rialto, California Police Department noted a 60 percent reduction in officer use of force indictments and an 88 percent reduction in the number of citizen complaints between the year prior to deployment of body-worn cameras and the year after. However, it is important to note that at this time, there appears to be no empirical analysis supporting the notion that body-worn cameras would reduce the number of citizen complaints against police officers.

Reduction in Litigation and Claims Costs

In addition to the possible reduction in the numbers of complaints, video footage from a body-worn camera may assist in the exoneration of officers against frivolous or meritless claims of misconduct, thereby, reducing taxpayer funds spent for investigation, defense, settlement or damage awards. The Baltimore Sun reported that Baltimore City paid $5,700,000 since 2011 in judgments or settlements of more than 100 lawsuits in which a party alleged police misconduct in incidents occurring years earlier.

Any percentage of reduction would be merely speculative at this juncture and the Working Group does not offer an opinion as to whether the City would see any savings, as no empirical data appears to exist supporting this possibility. Ultimately, that figure may be offset by the costs of implementing a body-worn camera program. However, the effects on the community, including potentially, an increase in cooperation with the police, while difficult to quantify, would be priceless in terms of continued building community trust in law enforcement, increased officer morale, improved public safety and the development of business and residential communities in Baltimore.

Training Benefits

Policing is inherently dangerous. The art of policing requires extensive initial training and consistent, on-going training. Body-worn cameras can be a benefit to both new recruits and seasoned members by providing a way to measure potential weaknesses, learn from real situations and evaluate police behavior to assist in professional development. It is one thing to review a written paragraph, for instance, on effectuating a safe traffic stop and it is another to actually see a safe traffic stop and hear accompanying audio.

Evidence Documentation in both Criminal and Administrative Cases

As part of law enforcement duties, it is incumbent upon officers to gather and document evidence for criminal prosecution. Camera footage may yield invaluable evidence and support for prosecutors. The decision making of both juries and judges may be greatly facilitated by the ability to view footage recorded by body-worn cameras. Likewise, defendants and defense attorneys may benefit by the evidence recorded. Moreover, the availability of such evidence may increase judicial economy by facilitating plea negotiations or lessening the need for trials. Also, the availability of recorded evidence may have similar effects in the prosecution of officers for alleged misconduct. Footage may provide irrefutable evidence of misconduct or it may exonerate an officer from a meritless claim of violation.

Privacy Concerns

The benefits of body-worn cameras also come with potential privacy concerns. There are circumstances where the persons police encounter have a legitimate expectation that the interaction will not be recorded without their consent, and there are legitimate concerns about how otherwise permissible recordings will be used by law enforcement, and whether and how recordings may be made public. The policies that the Working Group have unanimously recommended attempt to address these concerns, and existing provisions in the PIA already provide a structure and set of rules governing the potential disclosure of body-worn camera data that also provide important protections.

RULES GOVERNING RECORDING

The Working Group's recommendations regarding the rules governing recording seek to both minimize officer discretion (to avoid confusion, and to ensure that the public has a legitimate expectation that officers will not be able to simply avoid recording their own problematic or unlawful behavior), while at the same time protecting legitimate expectations of privacy by giving members of the public, in certain circumstances, the right to decline to be recorded (but the request that the recording cease will be documented on camera to ensure that there is a record of it, for the protection of both the public and the officer). In general, the Working Group concluded that the use of body-worn cameras does not render an otherwise constitutionally valid search or seizure invalid. In other words, when someone is lawfully stopped by an officer, or when an officer is lawfully in a person's home without the person's consent (for example when executing a search warrant), the person has no constitutional right to

prevent the interaction from being recorded (and the Working Group recommends that the body-worn camera policy require that ***all*** such interactions be recorded).

However, many interactions between officers and members of the public do not involve police exercising law enforcement authority, and are legally "consensual," such as interviews with victims or witnesses of a crime, or casual encounters on the street. Apart from privacy concerns, the Working Group was also concerned that people would be less willing in such circumstances to speak to police officers if they knew that they could not do so without being recorded, with significant consequences for public safety. The Working Group therefore recommends that officers inform persons that they encounter as soon as possible that a recording is being made, and inform persons who are not subject to the officer's lawful authority that they have a right to decline to be recorded.

USE OF RECORDINGS

The Working Group also considered privacy concerns about how the stored recording data might be used by law enforcement. Although body-worn cameras are being adopted as a transparency and accountability tool, they have the potential to turn into a surveillance tool. For example, the stored recordings could be searched using voice recognition or facial recognition software to identify persons potentially of interest to law enforcement. In addition, the stored video data could be used to create photo arrays for use in identifying potential suspects. Such uses of the recordings would severely undermine the public trust in the technology necessary for it to serve its intended purpose, and could significantly deter persons from wanting to interact with police at all. The Working Group therefore recommends strong policies to preclude such uses. The Working Group also recommends strong policies to prohibit recordings from being shared or used within law enforcement for non-law enforcement reasons (such as casual sharing of potentially embarrassing conduct by a member of the public).

DISSEMINATION OF RECORDINGS

The subjects of police recordings also have legitimate concerns about the public dissemination of those recordings, as well as about their ability to access recordings in which they are the subject. The rules governing such dissemination and access are found in the PIA, and they provide important rights and protections. In general, the Working Group agreed that body-worn camera data would constitute a public record, within the meaning of the PIA. The fact that something is a public record, however, does not necessarily mean it must be publicly disclosed, as the PIA has a number of mandatory and discretionary exceptions to the requirement of disclosure, and, in some cases, provides a greater right of access depending on who is requesting the record. All of these principles apply with respect to body-worn camera data.

The Working Group agreed that body-worn camera data would constitute an investigatory record of the police department, which is subject to special rules under the PIA. MD. CODE, GEN. PROV. § 4-351. With one important exception noted below, custodians of such records need not disclose them, or may redact portions of them, when disclosure would be "contrary to the public interest." The Working Group believes that this discretionary authority to withhold or redact is, in general, broad enough to cover the myriad privacy (and investigatory)

concerns that might be raised by the wholesale disclosure of unredacted body-worn camera footage (such as endangering potential victims or witnesses, images of unclothed persons, etc.).

The Working Group recognized that the obligation to withhold only those parts of the investigatory record that must be kept confidential will require staff time for review and redaction (for example redaction of particular faces, nudity, etc.). In some cases, the cost of that time can be passed on to the person or entity making the public records request. MD. CODE, GEN. PROV. § 4-206. The PIA requires that the first two hours of search and preparation time may not be passed on, *id.* § 4-206(c), and that any other charges must relate to the agency's actual costs. *Id.* §4-206(a). Moreover, agencies must consider the public's interest in the information in deciding whether or not to actually impose the costs. *Id.* §4-206(e).

There is an important exception to the above rules that relates to requests by persons who are the subject of the recording. The PIA recognizes that "persons in interest" have a special right to access an investigatory record, and that the authority to withhold some or all of such records when requested by that person is much more circumscribed. *Id.* § 4-351(b). A custodian of an investigatory record can deny inspection to a person in interest in only seven enumerated circumstances. The Working Group agreed that persons with whom an officer was interacting in a police encounter, whose actions were recorded by a body-worn camera, are "persons in interest" as defined in the PIA, with a presumptive right of access to the recording. The Working Group also agreed that the seven criteria for withholding would virtually never warrant withholding the entire recording, but might sometimes require some redaction (though there was some disagreement about the likely frequency of circumstances in which redaction might be appropriate). The Working Group discussed the balancing of costs associated with responding to PIA requests (including copying and redaction) and a major goal of increased transparency particularly in instances of persons requesting footage of their own interaction with law enforcement.

It is also important to note that the above discussion is separate from what information will have to be disclosed in criminal cases, which is governed by separate rules regarding discovery in criminal matters.

Maryland Wiretap Statute

Maryland has a statute which governs the "interception," meaning recording, of, among other things, "oral communications." *See* MD. CODE, CTS. & JUD. PROC. ("CJ"), § 10-401 *et seq*. (2014) In short, except as authorized by the statute, a person may not "willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral or electronic communications." CJ § 10-402(a)(2)-(3). Any such unlawfully and non-consensually intercepted communication cannot be used as evidence in any court proceeding. CJ § 10-405. However, the Act provides an exception for law enforcement in instances involving the recording of traffic stops. CJ §10-402(c)(4). These stops frequently involve what is commonly referred to as dashboard cameras.

The Working Group considered whether the use of body-worn cameras would violate the prohibition on intercepting oral communications without consent, because the cameras will be recording conversations between the officer and the subject of the interaction. The Working

Group agreed that most communication with police does not fall within the ambit of the statute, because "oral communication' does not mean every single spoken conversation, but only a "private conversation." CJ § 10-401(13(i). Maryland's courts have concluded that a "private conversation" is one in which there is a "reasonable expectation of privacy." The Working Group believes that there is generally not a "reasonable expectation of privacy" in communications with police officers exercising their law enforcement authority, particularly when the recording is conducted openly. *See* 82 Md. Op. Atty. Gen. 225 (2000). However, the Working Group believes that the Wiretap Law should be amended to reflect the unique nature of body-worn cameras and specifically allow for their use (similar to what was done for dashboard cameras). It is recommended that a sub-section (11) be added to CJP 10-402(c) consisting of the following proposed language:

> **(c) (11) It is lawful under this subtitle for a law enforcement officer in the course of the officer's regular duty to intercept an oral communication if:**
>
> **(i) The oral communication is recorded by an authorized external body worn camera system; and**
>
> **(ii) The law enforcement officer informs a subject of the recording as close to the inception of the recording as is reasonably and safely possible, that the subject is being recorded.**

FIRST AMENDMENT ISSUES

The Working Group acknowledges that members of the public have a right, under the First Amendment of the United States Constitution, to engage in peaceful demonstrations and protests. It was noted that officers' use of body-worn cameras and subsequent recording of citizens engaging in such activities could have a chilling effect on participation in such constitutionally protected activism, because of fears that participation could be permanently recorded and potentially used against participants in some way.

The Working Group also considered there may be times when officers need to exercise their authority during a demonstration such as when participants are breaking the law. The Working Group agreed that policies should include provisions to ensure that any stored camera footage of constitutionally protected activities will not be used to identify persons present at such activities who are not suspected of having engaged in illegal behavior. Language should be developed for a policy recommendation that will limit when recording takes place at constitutionally protected activities, such as demonstrations, protests, marches, attendance at religious functions, meetings, and similar activities.

PART TWO

RECOMMENDED POLICIES

In determining its policy recommendations, the Working Group considered a number of factors including the privacy of officers and of members of the public, including criminal suspects, victims, informants, witnesses and bystanders (and when any one in these categories is a juvenile, special legal obligations attach). It pondered scenarios involving sexual assaults or domestic calls in which parties may be extremely vulnerable, not fully clothed and in need of immediate medical assistance. Moreover, it pondered whether the citizens of Baltimore would be best served by body-worn cameras if the cameras were operable during the entirety of the assigned officer's shift. However, current technology, including battery length and charging mechanisms, does not make this feasible. It also recognized that to require officers to film during their entire shift, even when not engaged in a law enforcement related activity, could raise significant privacy concerns.

The Working Group used as a reference the Recommendations detailed in Appendix A of the PERF report, which was a joint project between the Police Executive Research Forum and the Community Oriented Policing Services Office of the United States Department of Justice. The Working Group sometimes adopted the PERF Recommendations unchanged or chose among the options that PERF recommended; it sometimes modified the PERF Recommendations to suit Baltimore's specific context. The Working Group also devised several new recommendations.

There are several policy issues explained below that the Working Group believes merit further study, public comment, and stakeholder consultations before specific policies should be promulgated. These include filming of officer responses to reports of sexual assaults and protection of traumatized victims of such assaults; the ability to prosecute those who perpetrated such assaults (Recommendation #16); police filming inside hospitals when called there to interview injured crime victims or witnesses or when called to respond to a crime in progress on hospital grounds (Recommendation #17); whether the State's Attorney's office should have its own direct access to the BPD body-worn camera data (Recommendation #28); additional study is also required to determine the extent of the BPD duty to expunge camera data when a court issues an expungement order (Recommendation #28). Issues concerning filming of First Amendment activity and issues concerning use of cameras by undercover officers or when officers are off duty but within the City limits should also be addressed by BPD policy. However, the Working Group was not able to formulate definitive and specific recommendations on this issue, as it felt the BPD should further study the issue.

Finally, the Working Group supports BPD conducting an initial pilot program with high crime/high call volume districts or units participating (Recommendation #1). This would serve to test a variety of makes and models of body-worn cameras which meet defined performance specifications. Such a program would permit the BPD to test the reliability and usability of the technology and data storage mechanisms, in order to make an informed choice about which technology to procure for a BPD-wide program. A pilot program would also provide a context in which policies and practices regarding the use and implementation of body-worn cameras could be fully vetted to determine the soundness of each.

The recommendations are as follows.

OPERATIONAL RECOMMENDATIONS

1. To obtain meaningful results, the body camera pilot program should be conducted with High Crime/High Call volume districts or units participating. High Crime/High Call Volume areas are defined by the BPD as "specific geographic areas where crime and police calls for service (CFS) are concentrated at their highest levels." High Crime/High Call volume districts and units are tracked by crime and call type, measured individually or grouped in the categories of Property Crime or Violent Crime. Statistical analysis should be performed by the BPD to determine which High Crime/High Call Volume districts or units should have pilots, and how many High Crime/High Call Volume districts or units should have pilots. The Working Group supports the idea of several different camera systems being tested during the pilot program to ensure that the system adopted for BPD-wide use is optimally operational.

2. General Orders ("GOs") should be promulgated providing specific instructions for officers on how to carry out the body-worn camera program, and permitting internal discipline when officers fail to comply with the GO's.

3. There should be a staged roll-out of a BPD-wide body-worn camera program.

4. Officers and supervisors should be trained regarding how to implement the body-worn camera program, including how to operate the camera, when it must be turned on (and when a citizen has the discretion to request that the camera be turned off, and how an officer must advise those being filmed and document their exercise of discretion), how to tag footage, how to download data, how to document equipment malfunctions and obtain replacement and/or repair, when footage may and may not be reviewed and when it should or must be reviewed. Officers should be trained on spoliation of evidence, and what presumptions are likely to apply if a camera does not record evidence, or it records and is not downloaded and preserved. Officers and supervisors should receive all required training prior to using cameras in the field.

5. Training should include scenario-based training replicating situations that officers might encounter in the field. Refresher training should be offered at least once a year through in-service training and/or roll call training. Costs related to training is an investment made to ensure officer safety (depending on the type of camera used, an incorrect use may lead to injury), proper equipment usage, and protection and use of reliable data.

6. Once the body-worn camera program is fully implemented, uniformed police officers should have cameras recording during every interaction with the public and during every exercise of police powers, except when in a consensual interaction where a citizen requests that the camera be turned off in accordance with Recommendation #13. Officers who are not regularly on patrol assignments will need to be trained on the use of body-worn cameras because they will often be detailed out to assignments where they will

interact with the public and/or exercise police powers. (*See* Recommendation #12 for when the camera may be turned off at the conclusion of an incident.)

7. In order to film the basis for a stop or on-sight arrest, an officer should turn on his or her camera as soon as he or she observes activity that might justify a stop or arrest. The Working Group recommends that cameras have a one minute buffer so that once a camera is activated; it will preserve footage from the minute prior to camera activation and going forward. If the officer's further observation of the activity dispels the suspicion of criminal activity, the officer has no basis for a stop or arrest and can turn the camera off unless he or she will follow up with a voluntary field interview, which should be recorded as an interaction with a member of the public. With this recommendation, the Working Group does not mean to imply or expressly state that the act of activating the camera alone justifies or requires that a stop be made.

8. Officers should record on camera or in writing when he or she fails to record an event or activity that is required to be recorded. This would work to ensure uniformity and permit supervisory review of instances in which officers failed to record, investigate as necessary and determine what, if any, discipline or corrective action should be taken.

9. BPD personnel should be prohibited from using privately owned, and thus unauthorized, body-worn cameras when on duty just as they are prohibited from wearing unauthorized weapons and handcuffs.

10. Official incident reports should note that a body-worn camera was filming during the incident. (Correspondingly, it is recommended that the camera data should be tagged with the report numbers for any police reports associated with the incident. to enable ease of cross referencing.)

11. An officer equipped with a body-worn camera should notify video subjects that they are being recorded as close to the inception of the encounter as reasonably possible.

12. Once activated, the camera should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.

13. When responding to calls for service, officers should arrive with cameras on. However, when a police officer with a body-worn camera commences an encounter with a person (a) reporting a crime, (b) providing information regarding a crime or ongoing police investigation, (c) claiming to be the victim of a crime, or (d) who wishes to speak with the officer and who is free to terminate the encounter, the officer shall immediately provide notice that the body-worn camera is recording and provide the person with the option to have the camera turned off. A request to turn off the body-worn camera should be recorded on the camera prior to turning it off.

14. Private residences should not be treated any differently than other property for purposes of recording. If the officer has legal justification to be there, the Working Group agrees

the officer has justification to film. As an example, the Working Group submits that an officer effectuating a warrant or responding to exigent circumstances is exercising lawful police powers and should film that activity in a body-worn camera program. However, there may be instances in which a resident may ask an officer to deactivate the body worn camera and an officer would be obliged to do so. It is strongly recommended that such instances be delineated in the General Orders' of the BPD and be reviewed in training.

15. When responding to a call for police assistance to a residential address, it is recommended that the officer should arrive with camera on, and notify those being filmed of that fact as soon as reasonably possible. If he or she determines there is no justification for exercising police powers at the address, the officer should notify those persons present that they have the option to request the camera be turned off. If such a request is made by a person present, the request should be recorded on video prior to turning off the body-worn camera. In the event of contradicting requests from more than one person, the contradicting requests should be recorded on video and recording should continue, unless and until the persons can be separated.

16. Whether there should be a separate policy for filming of sexual assault victims requires additional study and consultation with experts on trauma-informed policing. The Working Group recommends consultation with the Sexual Assault Response Team (SART) members and other advocacy groups. The Working Group does submit, however, that to maintain program consistency and effectiveness, its preference is a GO that requires officers to record all responses to calls for assistance in the same way—with cameras on. The Working Group also thinks it is important for officers responding to victims of any crime, including sexual assault, to inform the person at the earliest possible moment that a camera is present and recording, and that they have the option of speaking with the officer with the camera off. For the same reason, the Working Group would favor beginning encounters with sexual assault victims, like other crime victims, with cameras on, until the victim is informed that the camera is on and filming, but adds that the camera could be turned off at the victim's discretion, or when the victim directs that the camera be turned off.

17. Hospital administrators should be separately consulted concerning issues presented by police filming inside hospitals. Police often do preliminary or more involved interviews with injured crime victims or witnesses while they are in the hospital. Sometimes, in exigent circumstances, injured crime victims or witnesses are interviewed during medical interventions, such as a shooting victim giving a dying declaration. Hospitals will undoubtedly have concerns and suggestions for police policy to protect patient and staff privacy. In addition, police are sometimes called to hospitals in order to intervene in the commission of crimes and they will respond as for all crime call responses, with body-worn cameras on.

18. Recording of other agency personnel should be prohibited during routine activities when they are not interacting with members of the public or exercising law enforcement powers (that is, not engaging in activities such as effectuating a warrant or an arrest, conducting a stop or a search, controlling traffic or a crowd, restoring public order, etc.).

19. Officers should not record private conversations with confidential informants. This recommendation is not meant to prohibit officers from filming if confidential informants are present at a scene. Rather, it is to protect the confidentiality of these necessary informants.

CARE OF EQUIPMENT AND DOCUMENTATION OF EQUIPMENT FAILURES

The following recommendations concern the care of equipment. As the cost to repair or replace equipment is likely to be sizable, the Working Group recommends stringent oversight in this area.

20. Each officer should be responsible for the care and operation of his or her camera and, except as noted below in Recommendation #24, for downloading the data filmed at the end of each shift and tagging it as directed by GO's.

21. When equipment is inoperable, it should be exchanged for operable equipment at the earliest opportunity. (BPD may want to consider establishing a central location, open 24 hours a day/7 days a week, where officers can swap out camera equipment as needed.)

22. The camera technology should have the capacity to record when it malfunctions, and if possible, for what reason (i.e. through a series of error messages that are date/time stamped).

DOWNLOADING AND TAGGING OF BODY-WORN CAMERA DATA

Tagging, or marking of video, serves as a method to reference data at a later date. Tagging of the data will depend in large part on the capacity of the camera technology. The objective is to minimize the burden to officers and to maximize the thoughtful, useful tagging by subject matter with cross referencing to written reports. Performance standards for cameras and data storage systems should seek to maximize the automation of useful tagging, but should have the capacity for officer tagging, both in the field and at the station. It is anticipated that for each thirteen (13) minutes of video captured, it will take approximately an hour to subsequently review it and redact information, if necessary, and good tagging might reduce this review time frame. The following are recommendations to facilitate the downloading and tagging of data.

23. Any time the Force Investigation Team (FIT) team, or its equivalent, is activated to investigate an incident, any time there is a reportable use of force, or any other time in the discretion of a commanding officer not involved in the incident, it is recommended that a non-involved supervisor take possession of the officer's camera and be responsible for downloading its data and tagging it as directed by anticipated GO's.

24. Optimally, tagging should include: name of officer, date, time, GPS coordinates for each image; any CC# or other police report number associated with the images; type of incident (citizen contact, *Terry* stop, frisk, arrest, use of force, consensual search, non-consensual search, search warrant, arrest warrant, etc.), as well as a tag or flag indicating

potential privacy concerns regarding the content of the video. Multiple tags should be supported. Tagging should not include the name of any civilian subject of the video.

SECURITY, RETENTION AND DISCLOSURE OF BODY-WORN CAMERA DATA

25. Access to camera data should be controlled through a secure location which is accessible through a one-stop interface. It is recommended that camera data be retained for four (4) years, and then destroyed, unless subject to a litigation hold, related to an administrative investigation or associated with a criminal investigation. While, arguably, this is a significant retention period, it is a compromise considering incidents concerning juveniles or allegations of false imprisonment and malicious prosecution can often be brought well after four years.

26. While the Working Group recommends that all camera data be stored for four (4) years, some camera data should be copied for preservation as evidence in investigations or prosecutions for an extended period of time.[5] For example, camera data that is the subject of a notice of claim or a Civilian Complaint Review Board complaint that is subject to a litigation hold, related to a Force Investigation Team or IAD investigation, or related to a criminal investigation and/or criminal prosecution etc. should all be preserved as appropriate for those purposes.

27. The technology should retain a non-editable original version of the footage, and should log any time the footage is viewed, for what length of time and by whom, as well as logging any copying or editing. To allow for BPD's response to subpoenas, discovery requests and PIA requests, redactions can be made to editable copies of the data, which shall be stored as separately identifiable versions.

28. It should be noted that whether the State's Attorney's office should have its own direct access to BPD body camera data, or whether the current practice of BPD concerning review of subpoenas and upload of responsive documents (which will then include camera data) to the State's Attorney Office's cloud, needs further study and consultation between BPD and the State's Attorney's Office and their respective budget authorities. Additional study is also required to determine the extent of BPD's duty to expunge camera data when a court issues an expungement order.

REVIEW OF BODY-WORN CAMERA DATA

The Working Group concluded that officers should be able to review their own video footage to assist in complete and accurate report writing for routine matters. If permitted to do so, however, the Working Group recommends that officers document in their written reports whether their camera data for the incident was reviewed. In instances of non-routine matters, the Working Group formed additional recommendations. It is hoped that these additional

[5] The Working Group has recommended that recordings be retained for a minimum of four (4) years as most claims have a statute of limitations of no less than three (3) years. To retain for this length provides greater assurance that necessary evidence is available when needed by BPD or requested by a complainant or plaintiff. Recordings involving criminal investigations may be retained indefinitely.

recommendations will allow the BPD in select instances to secure recollections and first impressions early.

29. When the BPD's Units assigned to perform the duties currently performed by Internal Affairs Division, the Force Investigation Team or the Homicide Division (or their equivalents) are called to investigate, and/or for categorical uses of force, an officer should be required to make a statement concerning an incident without first reviewing his or her camera footage of the incident.[6]

30. Prior to writing an Administrative Report or making an administratively compelled statement, officers should only view their own footage and may not view the footage of other officers. The primary officer responsible for preparing the arrest report and the officer or officers conducting the criminal investigation as well as their uninvolved supervisor should be able to review any evidence they believe is appropriate, including other officers' videos of the incident.

31. When conducting an investigation of a non-categorical use of force or of an allegation of misconduct, it is recommended that supervisors not involved in the incident under investigation review the camera footage capturing images of the incident.

32. To ensure effective administrative and training support, it is recommended that Captains and other commanders randomly conduct audits of recorded activities of members under their direct command, especially of probationary employees. Commanders should also ensure review of all footage labeled use of force from officers under their direct command.

33. In addition to the aforementioned reviews, the BPD may wish to designate a unit or division to periodically conduct random review of camera footage to monitor compliance with the program, identify training and policy issues, and assess overall officer performance.

34. To maintain the integrity of the program, it is recommended that any data storage system have the capability to lock out access to specific camera data in order to control access as delineated above in the above noted recommendations.

PROHIBITED USES OF BODY-WORN CAMERA DATA

35. Footage recorded by police officers in the course of their duties should not be used for personal, non-business related uses. Sworn and civilian personnel should absolutely be prohibited from uploading data onto social media websites or otherwise released to the public, except as authorized by BPD.

[6] By overwhelming majority, the Working Group concurred in submitting this recommendation. However, it is important to note that two Working Group members (Gene Ryan and Michael Marshall, Esquire) did not agree with this recommendation. Both members were of the opinion that officers should be allowed to review footage before making any statement or writing any report.

36. General Orders should expressly prohibit stored audio/video data from being used, in whole or in part, to create a database of mug shots or employed in photo arrays, or otherwise searched via facial or voice recognition software. It is recommended that the General Assembly be asked to consider enacting into law a similar state-wide prohibition on such uses of stored video data.

37. Unauthorized access or release of data should be forbidden.

ONGOING EVALUATION AND REVISION OF BODY-WORN CAMERA PROGRAM

To monitor the success of the program as well as address issues that may be unforeseen or unable to resolve at this juncture, it is recommended that the BPD and its partners, including the Baltimore City Law Department, act upon the following recommendations.

38. The BPD should collect statistical data concerning camera documented uses of force, internal officer disciplinary convictions, and civilian complaints. The Baltimore City Law Department should collect data on the number of civil suits against BPD and payouts to plaintiffs when body camera footage documented the incident and the State's Attorneys' Office should collect data on convictions obtained when body–worn camera data was used as evidence.

39. The BPD and the City, including the State's Attorney's Office, should evaluate the fiscal impact of implementing a body-worn camera program, and the utility and efficacy of the body camera program.

40. The BPD should conduct ongoing, biannual reviews of its body-worn camera policies and protocols.

PART THREE

Based on the information presented to the Working Group, it is anticipated that costs associated with space, retention and video redaction will be significant. The Working Group determined it was important to identify and analyze available hardware and software options usable in the implementation of a body worn camera program along with likely cost expenditures. The Working Group determined it was beyond the parameters set to contemplate possible funding sources, as to do so is best left to governmental and departmental officials.

All financial analysis herein is based on the aforementioned recommendations noted in this report. The costs associated with hardware and software options have been trending down. It is important to note that, as body-worn camera programs proliferate law enforcement agencies, the price of camera hardware and cloud-based software is likely to continue to drop. Cost estimates contained in this report are based on currently available public information and fluctuation can be expected. The Financial Impact Assumptions are as follows.

Fiscal Year: The budget year beginning on July 1 and ending on June 30. The City is currently in Fiscal 2015.

Fixed Cost: Necessary expenditure that does not change based on the option selected.

Terabyte: Approximately 40,000 minutes of video.

Camera Application: User interface for interacting with footage – uploading, tagging, viewing, etc.

Storage Solution: The hardware necessary to save video.

Buffer: Pre-record time.

Redaction: Process of assuring privacy of identifying information.

Live Footage: Immediately available for viewing and usage.

Archived Footage: Longer term storage, not immediately available.

Year One: The first full fiscal year of body worn cameras being fully deployed within the police department.

VARIABLE ASSUMPTIONS

Officers

The analysis includes three potential deployment scenarios to provide context on the scope of deployment. Training and equipping BPD officers with cameras will not happen instantaneously; thus, BPD will need to prioritize the deployment of the camera inventory ultimately purchased and create a timeline for when cameras will actually hit the streets.

→ Scenario One: 1,500 Cameras

- This includes only BPD officers assigned to the department's Patrol function.

→ Scenario Two: 2,235 Cameras

- This includes all BPD police officers. These individuals are most often in contact with the public.

→ Scenario Three: 2,869 Cameras

- This scenario equips all of BPD's sworn personnel with cameras and may include individuals who are assigned to jobs in which they do not routinely interact with the public.

These scenarios are built to provide context for the number of officers who could ultimately be equipped with a body-worn camera. It is recommended that BPD do an internal analysis to determine the deployment strategy.

All officers outfitted with a body-worn camera will be required to attend a half-day training session before utilizing cameras operationally. The financial assumption includes a half-day training session only for current BPD officers; camera training for new recruits should be conducted as a component of their Academy curriculum.

Technology/Storage

Based on market information, the average cost of camera is $1,000.[7] The analysis assumes each officer will produce four hours of footage per 10-hour shift;[8] this information is consistent with anecdotal research provided by the City of Oakland, California's Body Worn Camera Program. Each body-worn camera vendor provides a unique camera application.

Per the Working Group's recommendations, it is assumed video will be stored for four years. Under this assumption, in Year One, stored video will be considered "live" and available for immediate viewing and usage by authorized personnel. In Years Two through Four, the video will be archived; discovery may take more than one business day.

The required storage capacity is calculated in terabytes and is based on a per officer factor. The number of terabytes needed per officer is derived from the number of recorded hours per officer, per year. This information is based on working days per the Fraternal Order of Police

[7] COPS: Implementing a Body-Worn Camera Program.

[8] Police One Article: "Why Obama's Body Camera Initiative Won't Work,"12/03/14.

contract; however, the actual number of recorded interactions per officer will vary among BPD bureaus, as current job assignment impacts officers' face-time with citizens.

Officers	
Officer Days Worked	208
Training Cost	$180
Video Generated	
Hours of video recorded per shift	4
Storage	
Terabytes per Officer	1.19
Average Cost of Cloud Terabyte	$336

Table 1[9]

Academic and professional literature notes that there exist both in-house and cloud-based storage solutions. The Working Group explored building the infrastructure to store footage on BPD servers, building out existing Mayor's Office of Information Technology (MOIT) solutions and procuring storage on a cloud network.

For the purpose of this cost assumption, data is provided based on the procurement of a cloud-based storage solution. By utilizing a cloud-based storage solution, the City will pay only for storage actually utilized and scale storage on-demand. This avoids the risk of under-utilizing hardware investments associated with in-house storage. ***All maintenance of the cloud-based storage solution will be the responsibility of the vendor; cost for this service is built in.***

Storage	
Average Cost of Cloud Solution (Yr1)	$1,327,141
Average 5 Year Cost of Cloud Solution	$14,947,912
Annual Cost of Cloud maintenance	$36,000

Table 2[10]

It is noteworthy that cybersecurity expert Mark Rauschecker, J.D., a Senior Law and Policy Analyst at the of the University of Maryland Francis King Carey School of Law's Center for Health and Homeland Security, highlighted the importance of sufficient back-ups of data in speaking with the Working Group. He further noted the importance of security for the servers that house camera data. He recommended that access to buildings and rooms which house servers be limited. This should be kept in mind as part of maintaining a cloud-based storage solution.

[9] Average training cost is based on BPD's $5/hr overtime rate.

[10] All cloud cost estimates are based on market averages.

Transparency

Video footage will be available to the public under the PIA. Currently, the City is required under the PIA to release CCTV video; however, no redaction takes place. Body worn camera footage will need to be redacted of any faces, signage or other identifying information that may jeopardize a police or legal investigation.

Departments with existing body-worn camera programs estimate that the average officer interaction video is thirteen (13) minutes long and, for every eight (8) minutes of video, it takes roughly thirty (30) minutes to review and redact. Literature suggests agencies should anticipate expenses tied to discovery and, in most cases, redaction of this video. However, because body-worn camera programs among policy agencies are in their infancy, it is difficult to assign an accurate assumption to the number of requests for video BPD would receive in year one. Oakland, California noted few requests while Seattle, Washington was overwhelmed with thirty (30) public information requests in November, 2014. Other agencies mitigate this issue via policy.

For the purpose of this financial model, the Working Group utilized the following:

Requests for Information	
Public Requests	13,976
Average number of Officers on Call For Service	2.5

Table 3[11]

As aforementioned, there is no absolute method to project the number of video requests the department will receive in its first year. For this reason, it is suggested that video redaction be contracted out on a by-need basis. The estimated cost for this service is $50 per hour.[12]

After three-quarters of request-for-information data is available, establishing a trend, BPD should determine whether it is more cost effective to add additional staff members to perform redaction in-house or continue contracting for service. For this reason, the cost of redaction is not included in the Years Two-Five cost assumption.

FIXED ASSUMPTIONS

Civilian Staffing

The policy recommendations require that BPD establish a 24-7 operation that accommodates the exchange of inoperable equipment. In order to fulfill this requirement, the financial model establishes the 24-7 Replacement Unit within BPD's existing IT department by

[11] Information provided by BPD.

[12] Estimated Cost of Redaction Services, Per Valaries Yoscak at Video Labs.

filling a current vacancy and hiring two additional staff members. These individuals will also be able to assist officers with other level-one issues, such as password resets. The chart below details the estimated salary and OPCs for each position; please note that the first position is an existing vacancy within BPD, which accounts for the minimal difference in estimated cost.

24/7 Replacement Unit			
Classification	**Est. Salary**	**Est. OPC**	**Est. Total Cost**
Computer Operator III	$48,209	$25,874	$74,083
Computer Operator III	$49,150	$26,189	$75,338
Computer Operator III	$49,150	$26,189	$75,338
Computer Operator III	$49,150	$26,189	$75,338

Table 4[13]

The Working Group recommendations require officers be able to tag videos in the field – meaning the video will link directly to a police report and CAD incident, as well as be tagged for type of incident and privacy concerns. While the camera ultimately selected for implementation will come with its own application for tagging and viewing, the administration and maintenance will be the department's responsibility Based on operational assessment, BPD will need to establish a Support Unit to meet these requirements. The Support Unit will be comprised of two (2) Engineers and one (1) Office Assistant.

Support Unit			
Classification	**Est. Salary**	**Est. OPC**	**Est. Total Cost**
Engineer I	$95,000	$41,533	$136,533
Engineer I	$95,000	$41,533	$136,533
Office Assistant III	$36,544	$21,970	$58,514

Table 5[14]

In addition to requiring the review of footage from use-of-force or alleged misconduct, the policy recommendations mandate video be subject to periodic, random auditing to "ensure compliance with the program, identify training and policy issues, and assess overall officer performance." In order to satisfy this policy, BPD must create a Video Compliance Unit to conduct periodic audits, as well assist the department in responding to discovery requests, and audit the performance of the aforementioned video redaction service.

Video Compliance Unit			
Classification	**Est. Salary**	**Est. OPC**	**Est. Total Cost**
Compliance Technicians	$45,000	$24,800	$69,800
Compliance Technicians	$45,000	$24,800	$69,800

Table 6[15]

[13] All salary and benefits are based on Fiscal 2016 figures.

[14] All salary and benefits are based on Fiscal 2016 figures.

Network Infrastructure Upgrade

Much of the BPD network infrastructure is near or at end of life and not capable of supporting the additional projected load of body camera footage. This line item supports upgrades of network switches and routers at each police district to allow for video transfers; the upgrade is estimated to cost $1,200,000.

If the City chooses to adopt the recommendations and implement a pilot program, these upgrades will need to take place immediately. For this reason, the cost is not reflected in the Year One model. Rather, it is reflected in the cost analysis for the PILOT program.

Materials & Supplies

The staffing required to implement and sustain the proposed body-worn camera program requires purchasing hardware and software. BPD will be responsible for a one-time computer purchase for each of the new positions. Two licenses to Adobe Premier Pro will be purchased for compliance and training prep work. It was noted during Working Group discussions that it may be preferable to have cameras in reserve, in addition to those assigned to sworn personnel, for the inevitable maintenance and repair issues that will arise requiring immediate replacement of an assigned body worn camera. For the purpose of this analysis, a 200 camera reserve is built into the fixed costs.

Additionally, each fiscal year MOIT assesses a fee on a per-person basis to cover the cost of future hardware and software replacements.

Item	Unit	Cost/Unit
Back-up Cameras	200	$1,000
Computers	8	$1,000
Computer Lease fee	8	$536
Adobe License	2	$360

Table 7

Camera Replacement Fund

In order to prepare BPD for future camera replacement, it is considered financial best practice to evaluate the useful lifetime of a camera and make incremental contributions into a replacement fund. The Subgroup estimates a five-year useful life for the average camera unit. Under this assumption, the average contribution would be $200 per camera, per year.

As aforementioned, as body-worn camera programs proliferate the law enforcement field, the price of camera hardware will continue to drop. The cost-per-camera will drive the annual contribution to the camera replacement fund.

[15] All salary and benefits are based on Fiscal 2016 figures.

The Working Group also considered warranty and replacement costs. Any pilot program will further inform the financial model in costs associated with replacement due to damage. Upon adoption, these costs should be factored into the budget during the third quarter review of the program.

FINANCIAL IMPACT

As aforementioned, Year One refers to the first full year of equipment being deployed and operational with the police department. Based on the City's procurement process and the recommended pilot, the City will not begin to incur the full cost of the program until late in Fiscal 2016 or the beginning of Fiscal 2017. Basic cost assumptions for the pilot program, of which details will be constructed by the police department, are below in the "Further Research" section of the report.

Year One

Based on the assumptions described above, the implementation of a body-worn camera program will have a fixed cost of $1,345,180[16] in Year One. Redaction will be variable upon the number of video footage requests; the conservative estimate is $1,747,000 in Year One. For camera hardware and cloud-based storage, BPD will incur costs based on the number of cameras the department ultimately deploys. The estimated cost per deployment scenario is:

Year 1 of Full Program Costs		
Option	*Variable*	*Cost*
Patrol Officers Only	1,500	$5,502,674
All Officers	2,500	$6,810,857
All Sworn Personnel	2,869	$7,938,275

Table 8

BPD camera deployment capabilities will determine the cost of the program in Year One; the maximum cost in Year One, if all 2,869 cameras are deployed, is $7,938,275. The minimum cost, if only 1,500 cameras are deployed, is $5,501,674. Although the deployment scenarios capture the impact of outfitting all sworn personnel, the report does not recommend that every sworn officer be issued a body-worn camera.

Years Two-Five

In the subsequent years, BPD will be responsible for the cost of personnel, computer lease fees, the cloud-based storage solution and a contribution into the Camera Replacement Fund. The same assumptions utilized for the Year One financial impact analysis were used to derive the cost of a body-worn camera program in subsequent years.

[16] This is an average of the fixed costs for each deployment scenario. The difference is money invested in the Camera Replacement Fund, which is variable based on the number of cameras purchased.

Additionally, it will be responsible for the cost of redacting footage for PIA and records requests. The below cost assumption does not include the cost of video redaction; after the aforementioned third fiscal quarter review of the video footage requests, the projected cost for Years Two through Five can be amended to reflect the estimated redaction cost.

	Cost Assumption		
	1,500 Cameras	*2,235 Cameras*	*2,869 Cameras*
Year 2	$3,182,249	$3,329,249	$3,456,049
Year 3	$4,408,965	$4,179,926	$4,453,726
Year 4	$5,479,255	$5,177,888	$5,451,688
Year 5	$5,192,686	$5,339,686	$5,767,852

Table 9

Request for Proposals (RFP)

The Working Group's recommendation includes an initial Body-Worn Camera pilot Program. Any pilot would be built into the City's existing procurement process and enable BPD to test available technology before selecting a vendor. The City's procurement process, on average, takes 180 days from initiation to award; however, the length of the pilot will extend the procurement period. The length and size of the pilot will be at the discretion of BPD. However, as noted above, it is recommended that the body-worn camera pilot program be conducted with High Crime/High Call volume districts or units participating.

The City's procurement office was consulted for guidance on the creation of an RFP. As a major time-consuming component of the procurement process is the drafting of an RFP, specification language is provided to ensure the technology is capable of performing the duties outlined by the policy recommendation.

BPD will be charged with selecting a set of criteria by which vendor proposals will be judged and assigning percent values; examples of criteria include: Price, Ease of Use, Capabilities and Performance (to be assessed during PILOT). However, specifications that have been identified are as follows:

Specifications

- Equipment
  - 720p minimum resolution
  - Ability to function in temperatures from -40 to 125 degrees
  - Battery life of at least 10 hours; if field recharging an option identify port (Micro USB preferred)
  - Field of view: wide angle to capture field of view of officer

- Low-light (to be assessed during pilot) to capture the normal human visible spectrum in low light conditions, not enhance what was not visible by officer in same conditions
- Video time and date stamp; and method to keep all operating components of the system reasonably in sync (i.e. multiple on-scene cameras).
- Availability of pre-event recording buffer, identify configurable ranges
- GPS capabilities to identify where footage was filmed
- Audio recording enabled. Audio range desired within officer range
- Water resistant or water proof
- Weather resistant

→ Software

- Ability to review/tag video in real time and after the fact on all major mobile platforms (Android, IOS) as well as traditional operating systems (Windows, Mac)
- Audit log to support chain of custody detail including these audit points:
  - Camera On/Off Events
  - Video Upload
  - Tagging (and untagging) of videos
  - Video Deletion (in coordination with video upload)
  - Camera and system reconfiguration Events
  - Video access
  - Video export
  - Access control changes
  - Camera or transfer errors
  - Diagnostics
- Camera assignment capability to provide officer-specific metadata on camera
- Integration with existing directory services to maintain existing credentials and role based security (allowing single password, a single place to suspend users, and identify who has access to what)

- Role based security to determine what software capabilities a user has (or does not) have access to, such as viewing own footage, viewing others footage, programming cameras, and configuration changes
- Ability to control access to video based on tags (such as officer involved shooting, juvenile, or others) in addition to role. These tags and roles to be controlled and maintained by the agency
- Multi-tenant and role-based access to allow for video "consumers" such as the States Attorney Office and/or "submitters" that may have distinct policy and access control rights such as the Baltimore Sheriff's Office and Baltimore School Police
- Enterprise-Grade security, including data locality (United States) and control over encryption keys while data is at rest and in transit
- Integration with public safety systems for assisted tagging of video based on criteria such as event and case dispatched to at the time of a video (tagging at time of video import into storage system is acceptable)
- Ability (given proper role based security) to export video to a standard, accessible video format such as MPEG2 without requiring special plug ins or software

→ Other

- Officer training support via train-the-trainer, video based training, or other methods
- Video collection data exposed via API other means to support audit reporting (i.e. member was on ten calls for service in this time period and ten videos were tagged appropriately)

FURTHER RESEARCH

Pilot Program

The policy recommendation includes a pilot phase to test market-available technology options. A review of metropolitan law enforcement organizations established pilots as a best practice in implementing body-worn camera programs. The average time spent on a pilot is six months, with between 50 and 125 officers testing each pilot product. The following is a list of organizations reviewed and their pilot parameters:

Agency	Total Officers	PILOT Length	# Piloted
Washington D.C.	4,000	Six Months	120
Philadelphia, Pennsylvania	6,400	Six Months	40
New York City, New York	34,500	N/A	54
Mesa, Arizona	780	One Year	50
Denver, Colorado	1,459	Six Months	125
Houston, Texas	5,318	N/A	100
Oakland, California	637	N/A	N/A

Of the jurisdictions noted in the table above, Mesa, Denver, Houston and Oakland have all implemented body-worn camera programs. Oakland is the only jurisdiction listed that did not conduct a preliminary pilot when designing a body-worn camera program.

Most often, vendors who scored well enough on the RFP criteria and specifications evaluation to participate in the pilot will provide their technology for test and evaluation at no cost. Each camera is then piloted by the same group of officers for a set amount of time; the average among other jurisdictions is one month per camera. In addition to this experimental use, the technology is often tested at the jurisdiction's Academy to evaluate performance in tactical situations.[17] Officers then fill out performance evaluations to be reviewed by the RFP award committee in its final decision-making process.

In order to efficiently administer the pilot, the BPD will need to bring on three (3) contractual individuals – a project manager, engineer and help desk analyst – for a six (6) month period or 1040 hours. Additionally, the City will need to invest in the necessary infrastructure upgrades detailed earlier in this report. The below cost breakdown is based on the assumption that BPD will select 100 officers to pilot technology for six (6) months.

	PILOT *Variable*	*Cost*	*Total*
Officers			
Training	100	$180	$18,000
Support Personnel			
Project Manager	1,040	$84.95	$88,348
Engineer	1,040	$99.46	$103,438
Help Desk Analyst	1,040	$48.59	$50,534
Technology			
Network Infrastructure Upgrade	1	$1,200,000	$1,200,000
		Estimated Cost	**$1,460,320**

[17] This is according to Anne Grant, Coordinator of the Body-Worn Camera Program for the Metropolitan Police Department in the District of Columbia.

PILOT				
		Variable	*Cost*	*Total*
Officers				
	Training	100	$180	$18,000
Support Personnel				
	Project Manager	1,040	$84.95	$88,348
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	Help Desk Analyst	1,040	$48.59	$50,534
Technology				
	Network Infrastructure Upgrade	1	$1,200,000	$1,200,000
			Estimated Cost	**$1,460,320**

As aforementioned, this pilot would be included as part of the City's formal procurement process which, on average, takes 180 days from releasing the bid to awarding the contract. The procurement of body worn cameras including a pilot will take longer. The below table provides an example timeline; assumptions include a six (6) month pilot program and six-to-eight week manufacturer production and shipping cycle:

Example Timeline		
Stage	*Date*	*Fiscal Year*
RFP Release	April 1,2015	2015
Pilot Vendor Selection	November 1,2015	2016
Pilot Completed	April 1,2016	2016
Award Contract	May 1,2016	2016
Begin Deploying Selected Technology	July 1,2016	2017

The policy recommendation charges the police department with selecting the officers and districts in which cameras will be piloted; in many jurisdictions, officers volunteered to participate in the pilot.

Researcher Study and Follow-up

Bi-annual review of this program is recommended, in order to note the value of scientific study and independent verification and validation of program successes. It is suggested that BPD work with the City Budget Office to derive cost assumptions.

Partnerships

Recent information from the Baltimore City State's Attorney (SAO) warrants continued conversation on how the availability of video footage will impact their case workflow. Currently, the Working Group does not have a recommendation as to the type of access SAO would have to BPD's camera application. The SAO is charged with identifying counterparts in cities with comparable caseload and an established body-worn camera program. This will provide examples for how the City should move forward with addressing SAO access to body-worn camera

footage as part of criminal and civil proceedings. Once a baseline is established, the SAO and the City's Budget Office can work together to determine financial impact.

In addition to the SAO, there is the potential for the following organizations to seek establishment of their own body-worn camera policies: Baltimore City Sheriff's Department, and Baltimore Public Schools Police. It is recommended that those agencies collectively work with the BPD to establish any programs to ensure compatibility and uniformity.

DRAFT

CONCLUSION

After extensive review of the issues posed by the possible use and implementation of body worn cameras by the BPD, the Working Group concludes that body worn cameras may provide additional transparency which, in turn, could potentially result in fewer complaints of misconduct, less costs associated with such complaints and greater accountability of BPD to the citizens it serves. Furthermore, prosecutions may be increased along with the success rate of same. The use of a body-worn camera system locally could document law enforcement interaction with the public by providing recorded evidence of actions, conditions and statements that may be used for court proceedings, internal review, or review by the public through formal request. Likewise, such documentation could facilitate and enhance officer and supervisor training.

However, body-worn cameras alone cannot resolve all issues involving law enforcement particularly the complicated relationship between law enforcement and the public. Continued dialogue by the BPD with the citizens of Baltimore is necessary as is a consistent disciplinary process for officers engaging in misconduct. To ensure a successful implementation, thoughtful deliberation, identification of suitable technology, sound policies and sufficient staffing are needed.