

ACTION –

Approval for the Implementation of a Body-Worn Camera Program for the Fairfax County Police Department

ISSUE:

Board approval for the implementation of a Body-Worn Camera program for the Fairfax County Police Department.

RECOMMENDATION:

~~If directed by the Board, adjustments will be made as part of the *FY 2020 Carryover Review* and baseline funding will be included in the FY2021 budget and in future years, as required, for implementation of a body-worn camera program.~~

The County Executive recommends that the Board of Supervisors approve the funding and implementation of the BWC program for the Fairfax County Police Department (FCPD). One-time funding is included in the FY2020 budget and baseline funding will be included in the FY2021 budget and in future years, as required, for the implementation of a body-worn camera program.

TIMING:

Board action is requested on September 24, 2019. If approved, the body-worn camera program will be phased in over a three-year period.

BACKGROUND:

Included in the Ad Hoc Police Practices Review Commission Final report, issued on October 8, 2015, recommendations were made by the Commission that Fairfax County Police Department (FCPD) officers be issued and required to utilize body-worn cameras (BWC) in performance of their duties. Colonel Edwin C. Roessler Jr., Chief of Police, had previously recommended the implementation of BWCs in June 2015. As a result of these recommendations, the Police Department conducted a 180-day pilot, March 3 - September 1, 2018, as approved by the Board on November 21, 2017, at three police district stations - Mason, Mount Vernon, and Reston. The purpose of the pilot was to evaluate equipment, policy, effectiveness of the program, officers' assessments, workload impacts, staffing needs, technical requirements, and funding requirements in all program areas, to include, the Police Department, Office of the Commonwealth's Attorney, the courts, and the Department of Information Technology.

As part of the pilot, the Department of Justice, Law, and Criminology at American University conducted a comprehensive evaluation of the effects of the BWC pilot program on use of force statistics, the number of community member complaints, changes in policing activities and community members' assessment of police legitimacy.

Key findings of the study include:

- There was overwhelming support among community members for the widespread adoption of BWCs.
- The majority of community members who interacted with police officers during the pilot program reported feeling positive not only about the personal experience but also about FCPD as a whole.
- There was no evidence that the presence or absence of a BWC during a police interaction had an impact of the community member's satisfaction with FCPD.
- There was consensus among the officers involved in the pilot that BWCs will increase the gathering of evidence and help settle complaints against officers.
- Most officers believed that their behavior and that of community members did not change because of BWCs.

BWCs have many potential benefits, and have, therefore, been adopted by many other police departments and localities. Most importantly, BWCs are a tool intended to build and sustain trust between the community and police and enhance police legitimacy. Trust is the foundation of effective policing and has served the Police Department and the County well in creating a safe community through co-production of public safety and engagement. The goal of building trust has been the foundation upon which the philosophy of community policing as adopted by the Police Department more than two decades ago was built. It was also included as one of the six main pillars of policing in the 2015 Final Report of the President's Task Force on 21st Century Policing.

The Police Department has traditionally enjoyed respect and support in a broad sense, but it must be recognized and acknowledged that challenges in building and sustaining trust in some diverse communities exists, as do concerns of perceived disparate policing activities, and bridging those barriers must be an ongoing and intentional focus. Along with continued efforts in community policing and more effective recruiting and hiring of diverse police officers to better reflect the demographics of the County, an investment in BWCs is intended to provide a tool designed to enhance transparency and accountability and help bridge any lack of trust and confidence in the Police Department.

BWCs also accurately record police officer actions and capture and preserve evidentiary material for review, investigations, and prosecutions. This aspect provides video that may benefit prosecutors, the defense bar, public defenders, and the courts as a tool to help inform prosecutorial decisions and ensure fair trials. While the courts have reported little or no experience with BWC video in courtrooms as a result of the pilot, they are familiar with in-car video, and are generally supportive of BWC technology or any technology that can help present factual evidence for a fair trial.

The Police Department investigates all complaints against police officers, as well as types of cases that require an automatic inquiry or administrative investigation. These latter include, but are not limited to, use of force cases and vehicle crashes involving police officers. Some complaints or cases are also reviewed by either the Independent Police Auditor or the Civilian Review Panel. The goal of any investigation or review is a fair, complete, comprehensive, accurate, and objective review of all available relevant evidence, facts, and circumstances. Just as provided by police cruiser in-car video, BWCs can provide additional evidence or information to aid in that goal, and to potentially also achieve more timely resolution of some cases.

As other potential benefits, BWCs may reduce the number of complaints against police officers, may reduce the number of use of force incidents, may enhance officer safety, and review of BWC video may provide information for the Police Department to evaluate any opportunities for improvement through training or policy revision or development.

Staff has also met with representatives of the Commonwealth's Attorney's Office, the courts, the Public Defender's Office, and the Department of Information Technology to discuss their perspectives of a BWC camera program, their experience during the pilot program, their requirements if a program were to be approved and implemented, and any concerns or questions. All key stakeholders are generally supportive of a BWC program, although, as stated previously, the courts have reported that any actual courtroom use of BWC video has been limited to date. The Commonwealth's Attorney's Office was engaged throughout in the pilot program to evaluate the BWCs, process, software, and staffing requirements. The courts require the appropriate IT equipment and expertise to show video in the courtrooms without delay during a trial, and they have some concern as to the potential impact BWC video could have on the length of trials based on the number of judges and courtrooms in session and the need to move through dockets in a timely, but fair, manner. To the courts' concerns as to courtroom technology, the County has made investments in courtroom technology through the Court's Courtroom Technology Management System (CTMS) which offers multimedia evidence presentation and audio/video conferencing capabilities. The CTMS enables users to present digital and electronic evidence simultaneously to judges, clerks, attorneys, jurors and spectators through an integrated audio/video network of microphones, monitors, assistive devices and flat screen displays. The Court Technology Officer was engaged in the planning and implementation of the BWC pilot

program. The Department of Information Technology (DIT) will continue to work closely with and support the courts' technology needs.

The courts have also expressed the need for a process to be developed for pro se defendants to be able to access and view any video in advance, and to be able to present in the courtroom. Finally, all key stakeholders have expressed the need for an enhanced training program on the BWC video processes for staff and the defense bar.

The results of the BWC pilot and the American University study, the perspectives and requirements of the key stakeholders, and the plan and cost estimates for a full BWC program implementation were presented and discussed at the July 9, 2019, Public Safety Committee meeting. Following that discussion, the Committee directed that staff prepare this Action Item for September 24, 2019, for Board consideration of a full BWC program.

As planned and recommended by the Police Department, a full BWC program would consist of 1,210 cameras issued to all district stations and other key operational staff. The planned implementation will require an additional 34/34.0 FTE positions, to include 5/5.0 FTE positions for the Police Department, 23/23.0 FTE positions for the Office of Commonwealth's Attorney (to include Assistant Commonwealth's Attorneys and support positions), and 6/6.0 FTE positions for the Department of Information Technology.

BWC Implementation Plan

Equipment/Staffing/Funding	FY 2020	FY 2021	FY 2022
Cameras	416	338	456
Positions	13	13	8
<i>Police Department</i>	3	2	0
<i>Office of the Commonwealth's Attorney¹</i>	8	9	6
<i>Department of Information Technology</i>	2	2	2
Available Funding Reserve for Ad-Hoc Police Practices Review Commission	\$4,312,614	\$0	\$0
Baseline Funding Required	\$0	\$5,506,481	\$1,147,705

¹ Includes a combination of Attorney and support positions.

² Full implementation by FY 2022 - 1,210 cameras, 34 personnel, \$6.65 million baseline funding. Remaining \$1.3 million in Reserve of Ad-Hoc Police Practices Review Commission to be used for one-time needs or other initiatives.

If approved, the County will begin the procurement process and enter into a five-year agreement with renewal options with the vendor with implementation to be phased in over a three-year period. The anticipated implementation would be on or about May 1,

2020. It is important to have funding in place in advance of May to provide for appropriate time for the procurement process; equipping and training of police officers; the transition of the Commonwealth's Attorney's Office; recruitment, hiring, and training of associated staff; expanded training, as requested, for the Commonwealth's Attorney's Office, the courts, the Public Defender's Office, and the defense bar; and the development of policy and practice for pro se defendants to access and view any relevant BWC video, as requested by the courts. For the Police Department the first-year phase would include the three police district stations which participated in the pilot program so initial training needs would be reduced.

The full implementation plan includes cameras for School Resource Officer (SRO) positions, but, as noted in Public Safety Committee meeting discussions, decisions on any potential deployment within public schools would be made only in joint discussion with the Board of Supervisors and the Fairfax County School Board. SROs do at times work other assignments outside of the schools and would still require an assigned camera. The plan also includes the future South County police district station as those positions are being funded, hired, and trained in advance.

It is important to note the projected workload increase on the Office of the Commonwealth's Attorney for the retrieval, review, redaction, and dissemination of increased video footage. As this has been a concern in the Commonwealth of Virginia, the General Assembly, in the 2018 Special Session I, enacted language in the 2018 – 2020 Biennium Budget establishing a workgroup under the Compensation Board to study the workload and make recommendations. The workgroup issued a report titled, *Workgroup Study of the Impact of Body Worn Cameras on Workload in Commonwealth's Attorneys' Offices*, dated December 1, 2018, to the General Assembly, recommending a requirement that localities establish and fund one Assistant Commonwealth's Attorney for every 75 body-worn cameras unless the Commonwealth's Attorney and the respective locality can reach agreement as to a different funding formula. However, as the workgroup did not find the existing data to be conclusive for determining a definitive staffing ratio, it also recommended that the workload study be continued through December 2020 for more quantitative analysis. Local government representatives on the workgroup emphasized that the discussion of workload within Commonwealth's Attorneys' offices must include the state's failure to fund Compensation Board-approved staffing standards for many years, which has been mitigated in many localities by local funding of additional positions, as well as local salary supplements. The staffing recommendations included in the proposed BWC implementation plan reflect the 1:75 ratio, as well as additional support positions which the Office of Commonwealth's Attorney expressed would be required. If a BWC program is approved, staff will work closely with the next Commonwealth's Attorney to evaluate the workload associated with BWC and to determine if a different funding formula agreement can be reached.

During its 2019 Session, the General Assembly did adopt and enact the workgroup's staffing requirement for Commonwealth's Attorney's offices in amendments to the 2018 – 2020 biennium budget. It also directed that the workload study be continued, but placed the workgroup under the Secretary of Public Safety and Homeland Security, with a report due to the appropriate General Assembly committees by November 15, 2019. The scope of the workgroup has been expanded to look at the fiscal and policy effects of the cameras on the public safety and judicial systems as a whole, in addition to the workload issues in Commonwealths' Attorneys' offices, which was the primary focus of the 2018 workgroup. Legislative staff will track the progress of this workgroup and update the Board as to any revised recommendations or requirements.

Prior to implementation of the second- and third-year program phases, staff will also work closely with all key stakeholders to assess and evaluate progress and any recommended or required modifications and provide an update at a scheduled Public Safety Committee meeting or in a memorandum to the Board.

FISCAL IMPACT:

In FY 2020, costs are estimated to be \$4.3 million, which includes recurring and one-time costs, can be accommodated through the redirection of a portion of the \$5.57 million balance in the Reserve for Ad-Hoc Police Practices Review Commission Recommendations. This amount will cover the initial cost of equipment, infrastructure enhancements and will allow for the immediate recruitment and hiring of personnel to ensure a seamless implementation on or about May 1st. In FY 2021, baseline recurring funding of \$5.5 million will be required and will be incorporated into the FY 2021 Advertised Budget Plan. In FY 2022, additional recurring baseline funding of \$1.1 million will be required. Remaining balances in the Reserve for Ad-Hoc Police Practices Review Commission Recommendations will be held to fund other one-time needs. A possible use for this funding could be the expansion of office space for the Office of the Commonwealth's Attorney in the second or third year of the program, as existing space is limited for the required additional staff.

ENCLOSED DOCUMENTS:

None

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Joseph M. Mondoro, Chief Financial Officer
Christina C. Jackson, Director, Department of Management and Budget
Cathy Muse, Director, Department of Procurement and Material Management
Gregory Scott, Acting Director, Department of Information Technology