

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 116
Judiciary

(Delegate Conaway)

Judicial Proceedings

Public Safety - Law Enforcement Officers - Video Cameras

This bill authorizes all “law enforcement officers” in the State, excluding officers on detective duty, to wear a video camera affixed to the officer’s uniform while on duty. A law enforcement agency must preserve a video recording made under the bill for at least 30 calendar days. A law enforcement agency must develop policies and procedures to execute the bill’s provisions.

Fiscal Summary

State Effect: None. All State law enforcement agencies may already authorize the use of video cameras by law enforcement officers. It is assumed that any expansion of the use of video cameras by State agencies, and the development of any related policies and procedures, would only be done within budgeted resources and would likely exceed the bill’s minimum preservation requirement.

Local Effect: All local law enforcement agencies may already authorize the use of video cameras by law enforcement officers. It is assumed that any expansion of the use of video cameras by local agencies, and the development of any related policies and procedures, would only be done within budgeted resources and would likely exceed the bill’s minimum preservation requirement. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A “law enforcement officer” means an individual who in an official capacity is authorized by law to make arrests and is a member of one of the following law enforcement agencies:

- the Department of State Police (DSP);
- the Police Department of Baltimore City;
- the Baltimore City School Police Force;
- the Housing Authority of Baltimore City Police Force;
- the Baltimore City Watershed Police Force;
- the police department, bureau, or force of a county, municipality, or bi-county agency;
- the office of the sheriff of a county;
- the Maryland Transportation Authority Police;
- the police forces of the Maryland Department of Transportation, the Department of Natural Resources, the Department of Health and Mental Hygiene, the Department of General Services, and the Department of Labor, Licensing, and Regulation;
- the Field Enforcement Bureau of the Comptroller's Office;
- the Crofton Police Department;
- the police forces of the University System of Maryland and Morgan State University;
- the Office of the State Fire Marshal;
- the Ocean Pines Police Department;
- the police forces of Baltimore City Community College and Hagerstown Community College;
- the Internal Investigation Unit of the Department of Public Safety and Correctional Services (DPSCS); or
- the Warrant Apprehension Unit of the Division of Parole and Probation within DPSCS.

“Law enforcement officer” does not include:

- an individual who serves at the pleasure of the Police Commissioner of Baltimore City;
- an individual who serves at the pleasure of the appointing authority of a charter county;
- the police chief of a municipal corporation;
- an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made; or
- a fire and explosive investigator in Anne Arundel, Montgomery, Prince George's, or Worcester counties, or the cities of Annapolis or Hagerstown, as defined in the Criminal Procedure Article.

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

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

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

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

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

The cameras and related equipment, including data storage, in current use in the City of Laurel are the AXON flex units available through TASER International, Inc. The cost for each camera was about \$500. The City of Laurel has been outfitting its full patrol

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

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

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

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

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

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Calvert, Howard, Montgomery, and Prince George's counties; cities of Bowie and Laurel; Baltimore City; Department of Natural Resources; Department of General Services; Department of Health and Mental Hygiene; Comptroller's Office; Department of State Police; Department of Public Safety and Correctional Services; Maryland Department of Transportation; National Conference of State Legislatures; U.S. Department of Justice; Department of Legislative Services

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