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Asst. Undersecretary

LAW ENFORCEMENT BODY WORN CAMERA TASK FORCE

Date: October 26, 2021

Time: 9:30AM-12:00PM

Place: Microsoft Teams (Virtual Meeting – access link posted publicly on mass.gov)

Members Present:

Asst. U/S Angela F.F. Davis (Chair)
Cpt. Steven McCarthy, State Police (Vice-Chair)
Alyssa Hackett, Esq., Committee for Public Counsel Services
Chief Thomas W. Fowler, Salisbury Chief of Police
Cpt. Steve McCarthy, State Police
DA Michael O'Keefe, Cape & Islands District Attorney
Emiliano Falcon-Morano, Esq., ACLU
Fred Taylor, NAACP
Grace Lee, Esq., People's United Bank
Hillary Farber, Esq., University of MA School of Law
Israel Marrero, Boston Police
Jose Lozano, Boston Police
Kaleigh Marshall, Chelmsford Police Department
Rose King, Esq., Committee for Public Counsel Services
Sheriff Patrick McDermott, Norfolk County Sheriff
Steven J. Brooks, Esq., Brooks & Crawley, LLP
Tim Mitchell, EOTSS
Sgt. Tim King, Massachusetts Coalition of Police
Chief Steve Sargent, Worcester Chief of Police

Members Not Present:

Carmelo Ayuso, State Police
Stephen Carley, Esq., MA Attorney General's Office
Thomas Ashe, Chief of Staff at Mayor Dominic Sarno's Office

Staff:

Suleyken Walker, EOPSS (Board Counsel)
Dan Nakamoto, EOPSS (Board Advisor)
Michaela Martini, EOPSS (Staff)

Call to order & attendance

The meeting was called to order by Chairwoman Davis at 9:35AM.

Vote to approve minutes

There was a motion from Cpt. Steve McCarthy to accept the October 12, 2021 meeting minutes. Izzy Marrero seconded the motion. All voted in favor and the minutes were passed unanimously.

Vote to approve updated interim report

Attorney Walker (EOPSS) gave a brief overview of the changes made to the report. Izzy Marrero made a motion to accept the interim report. Cpt. McCarthy seconded the motion. All voted in favor and the minutes were passed unanimously.

Updated Timeline

Chairwoman Davis gave an overview of the timeline and looked to members for feedback. She asked the group for their thoughts on the January 2022-April 2022 portion of the timeline specifically, which included drafting the report. Tim King asked about the possibility of stretching the timeline a bit as the current timeline may prove to be unrealistic. Attorney Walker noted that EOPSS could attempt to request an extension from the legislature as other boards have. Chief Fowler agreed that it is an aggressive timeline and suggested looking into extending it if possible. Captain McCarthy noted it may be a little early to begin requesting an extension, but we can certainly continue conversations. Chief Sargent stated that he agrees but acknowledged that there is pressure from community leaders for municipalities to have a body camera program in place and they would like the recommendations from the Task Force in place first before rolling out a program. He suggested that the Task Force stick to the timeline. Chief Fowler acknowledged that other PDs are waiting on the Task Force's recommendations to deploy a program. Attorney Farber stated she felt it would be unrealistic that by January, this group would have something to share publicly.

Attorney Lee moved for the task force to try and keep to the timeline set out by the legislature and in the event the Task Force/EOPSS needs to request an extension from the legislature that option may be raised. The motion carried and passed unanimously. Chairwoman Davis noted that the group will proceed with attempting to keep this timeline and should check in to see how things are working at each meeting.

Subcommittee Updates

- a. Vote to Approve Final Draft of Public Statement regarding listening sessions and communication plan

In paragraph E, Attorney Farber played with the language about privacy being at risk. Notably, she would like the word "at risk" to be removed and replaced with "impacted". She read an alternative phrase and the Task Force agreed to adopt the new language which reads:

"It is likely that the privacy of anyone whose image is captured by the cameras will be impacted." (paragraph E, sentence 2)

In paragraph C, Cpt. McCarthy suggested “tape” be replaced with “recording” anywhere the word “tape” appears in the document as recordings are not taped at this point in time and therefore, recording is more accurate.

Chief Fowler suggested replacing “addendum” with “supplemental report”.

There were some grammatical changes made to the last sentence in paragraph C as proposed by DA O’Keefe, dropping the word “could” and adding a question mark as punctuation.

Attorney Farber’s other suggestion was that the first page read “and” instead of “or” with respect to when the public listening sessions will be held.

Attorney Falcon-Morano acknowledged that the first iteration of this document had language about facial recognition which is absent from the current document. Steven Brooks recalled discussing as a group that there is another task force dealing specifically with facial recognition. Attorney Falcon-Morano said that facial recognition is mentioned in this specific task force language so the group should include it as it was a specific ask from the legislature. He further stated that if this body does not mention it, the report will be incomplete because we would not be following the statute.

The statutory language reads:

(e) On or before July 31, 2022, the task force shall, by majority vote, adopt recommended regulations for law enforcement agencies. The regulations recommended by the task force shall include, but not be limited to: (...) ; (ii) standards regarding the use of facial recognition or other biometric-matching software or other technology to analyze recordings obtained through the use of such cameras; provided, however, that such standards may prohibit or allow such use subject to requirements based on best practices and protocols.

Fred Taylor noted that body worn cameras will be used with facial recognition and the public should have an opportunity to weigh in and say something about that.

Attorney Farber suggested this group keep in mind that the purpose of this document is for public comment, and she would like to hear comments on this issue if anyone from the public would like to share.

Chief Fowler said we should include it in our report but that it does not need to be part of our solicitation with the public input sessions.

Attorney Lee stated that the Body Camera Task Force needs to address this issue but perhaps does not need to have any definitive policy recommendations.

DA O’Keefe suggested inviting Rep. Day or Sen. Eldridge to address this task force as they chair the Facial Recognition Commission so that this group can hear from them on what may be relevant to include.

Attorney Walker offered another suggestion of referencing the other Facial Recognition Commission in the report. Attorney Falcon-Morano agreed that this group should reach out to the Facial Recognition Commission after they issue their report in December. He noted we should still solicit public comment while waiting for the data. Attorney Lee noted that this body is not going to be able to do the topic of facial recognition justice since it does have it as the sole mandate, and it could be in conflict with another task force with more resources. It was decided we keep facial recognition out of public solicitation but that in December, the Body Camera Task Force will reach out to get input from the Facial Recognition Commission.

Chief Fowler suggested “police officers” be removed and replaced with “police departments” in the document as it infers officers have that choice of when to turn on and off a camera and that is not true. Chief Sargent suggested that the group should perhaps put policies and jurisdiction in there as well.

As for other subcommittee updates, Dan Nakamoto is staffing the privacy and record keeping subcommittee as well as the subcommittee on technology and procurement. He is setting up initial meetings with both groups.

Cpt. McCarthy reported that his subcommittee on training and discipline is holding their first meeting on Thursday afternoon.

Public Comment

Nicole Herendeen from Benchmark Strategies noted that her office represents Axon and as such, she wanted to offer any support or be a resource to the Task Force if needed. She stated that Benchmark is happy to provide technical insight and give information on jurisdictions that recently modified their BC body camera policies.

Steve Roche stated that the Public Safety Committee Chair attended a demonstration of body cameras for Springfield and he will send along a press clip to the Task Force.

Chairwoman Davis asked that once everyone on the Task Force has received a public copy of the public statement document, they share it with their colleagues and constituencies.

Adjournment

There was a motion to adjourn by Tim King. It was seconded by Cpt. McCarthy. All voted in favor. The meeting adjourned at 10:41AM.