CITY OF BALTIMORE COUNCIL BILL 06-0220R (Resolution)

Introduced by: President Dixon, Councilmembers Young, Holton, Reisinger, Mitchell, Welch

Introduced and read first time: September 25, 2006

Assigned to: Public Safety Subcommittee

Committee Report: Favorable with amendments

Adopted: December 7, 2006

2.8

A COUNCIL RESOLUTION CONCERNING

Informational Hearing – Baltimore Police Department Policy – Recording of Custodial Interrogations

FOR the purpose of requesting the Baltimore Police Commissioner to share with the City Council the departmental policy on the use of video and audio recording in custodial interrogations; an analysis of the efficacy of recording devices in preventing wrongful convictions and in protecting police officers from false accusations of abusive, immoral or illegal actions; and any plans to retain as is, expand, or improve the existing program.

8 Recitals

The International Association of Chiefs of Police Association Policy Center's recently published <u>Electronic Recording Of Interrogations And Confessions</u> model policy states: "It is the policy of this law enforcement agency to electronically record specific custodial interrogations and confessions in order to provide an evidentiary record of statements made by suspects of major crimes. Such electronic recordings help protect both the suspect(s) and interviewing officers against potential assertions of police coercion or related interrogation misconduct, and may increase the likelihood of successful prosecution."

In <u>Police Experiences with Recording Custodial Interrogations</u>, a study published in 2004, by the Northwestern University School of Law Center on Wrongful Convictions, highlights the experiences of law enforcement agencies nationwide finding that in the 238 law enforcement agencies in the 38 states that have adopted the practice, audio or video recording of custodial interrogations are very effective, specifically in trial proceedings, where recordings dramatically reduce uncertainty about what happened during interrogations. The author, Thomas Sullivan, a former U.S. Attorney, concludes that "recordings benefit suspects, law enforcement, prosecutors, juries, trial and reviewing court judges, and the search for truth in our justice system."

In a follow-up study, <u>Electronic Recording of Custodial Interrogations; Everybody Wins</u>, universally recognized expert Thomas Sullivan further found that in addition to protecting suspects and police alike, court time is saved because the record is clear and conclusive and prosecutors and defense lawyers do not have to tie up time and resources in court arguing about what took place during the interrogation. Additionally, he found that the recording of interrogations results in voluntary admissions and confessions that are indisputable in court, that the ability to obtain confessions and admissions were generally not affected, and that police officers were later able to review the interrogations to follow up on leads or inconsistencies.

EXPLANATION: <u>Underlining</u> indicates matter added by amendment.

Strike out indicates matter stricken by amendment.

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And finally, the practice increases public confidence in law enforcement because it shows law enforcement personnel have nothing to hide.

By last year the Justice Project, a non partisan organization dedicated to fighting injustice, found there were 3 ways the recording of interrogations were being implemented in states. Some states, such as Illinois, Maine, New Mexico, and the District of Columbia, have enacted legislation to mandate that custodial interrogations must be recorded. In other states, such as Alaska, Minnesota, New Jersey, Massachusetts, and New Hampshire, the states' supreme courts have ruled that law enforcement offices have a constitutional duty to record interrogations when possible. In some instances, individual police departments adopt policies that require recordings, but this occurs in a very small percentage of law enforcement agencies in the United States.

In 2006, a number of other states considered legislation to mandate the recording of police interrogations: in Virginia, legislation was introduced to require custodial interrogations of juveniles to be electronically recorded; in Florida, 4 bills were introduced in the wake of a number of exonerations in that state; 2 bills were introduced in Arizona that would require recording in homicide cases; and similar measures were introduced in Michigan, Missouri, New Jersey, Pennsylvania. Here in the Maryland General Assembly, a bill was reintroduced from the 2005 session that would require a custodial interrogation in cases relating to a criminal investigation of a crime punishable by death to be recorded, and again it was killed by the House Judiciary Committee.

We cannot wait for the State to act. In the present climate where law enforcement and the general public are working to forge an effective partnership to fight the life and death war against crime, we must consider implementing a mandatory recording of all custodial interrogations to protect suspects, our men and women in blue, and the faith of Baltimore's citizen in the integrity of those whose sworn duty it is to protect and to serve.

In its 2005 and 2006 Legislative Sessions, the Maryland General Assembly considered legislation to require mandatory recording of custodial interrogations. This legislation failed to make it out of the House Judiciary Committee.

Anticipating that the General Assembly will again reintroduce this legislation in 2007, the Baltimore City Public Safety Committee will assemble a working group consisting of representatives of the Baltimore City Council, Mayor's Office, Baltimore Police Department, and State's Attorney's Office, to explore all aspects of related issues. Issues may include, but are not limited to, adopting best practices from Maryland and other states, determining what crimes would fall under the proposed legislation, setting the time period needed to implement any changes, and assessing the cost of equipment, facility accommodations, training, storage, and on-going maintenance. This working group will provide the City Council with a written update no later than February 1, 2007.

Now, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE, That the Baltimore Police Commissioner is requested to share with the City Council the departmental policy on the use of video and audio recording in custodial interrogations; an analysis of the efficacy of recording devices in preventing wrongful convictions and in protecting police officers from false accusations of abusive, immoral or illegal actions; and any plans to retain as is, expand, or improve the existing program.

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1	AND BE IT FURTHER RESOLVED, That a copy of this Resolution be sent to the Mayor, the
2	Baltimore Police Commissioner, the Fraternal Order of Police Lodge 3, the Baltimore Chapter of
3	the National Organization of Black Law Enforcement Officers, the Vanguard Justice Society,
4	and the Mayor's Legislative Liaison to the City Council.