



Memorandum

TO: RULES COMMITTEE

FROM: Councilmember Sam Liccardo

SUBJECT: SEE BELOW

DATE: January 31, 2012

APPROVED:

1-31-12

RECOMMENDATION

1. Agendize for staff evaluation and Council consideration of a potential application for federal grant funding for on-person cameras for SJPD patrol officers at a Public Safety, Finance & Strategic Support Committee meeting, in light of:
 - a. Summary of the experiences of San José officers under the 2009 AXON (ear-mounted cameras) pilot program;
 - b. Assessment of the cost savings in litigation expenses and awards with the use of on-person cameras;
 - c. Discussion with Chief Moore and SJPOA of any concerns they have about the use of such cameras, and any costs or administrative burdens resulting from their use;
 - d. Discussion with the DA's and Public Defender's offices on any issues they anticipate relating to discovery requirements (i.e. producing evidence for criminal prosecution)
 - e. Sources of federal funding that have been used in past grant awards to other jurisdictions, e.g., the City of Phoenix.

BACKGROUND

Cities and counties throughout the U.S. pay an estimated \$2.2 billion annually in settlements and awards relating to litigation over alleged civil rights violations and other claims against police departments. That amount does not include the steep costs associated with the routine burdens of investigating and litigating these cases. Although the City of San José benefits from an extraordinarily low rate of compensated claims for police misconduct, the annual cost to our own taxpayers frequently lies in the millions of dollars. The great many of those suits are resolved with payments of "nuisance" value; that is, despite the lack of evidentiary substantiation of the claim, municipalities will pay an amount necessary merely to rid itself of the litigation. Other suits go through expensive litigation to trial, mired in a spate of he-said, she-said evidentiary conflicts that bring unpredictable results from juries.

There has been much discussion in academic circles about the value of head-mounted cameras, and whether they might provide critical information in instances of officer-involved shootings or allegations of excessive use of force and other violations. This technology offers the promise of substantially reducing litigation costs, both by resolving unmeritorious claims against our police department, and by hastening the settlement of legitimate claims immediately, and by enabling the Department to engage in remedial training and discipline. Moreover, giving the public the confidence of greater transparency in our officers' conduct can further promote trust within the community.

In late 2009, under former Police Chief Rob Davis, SJPd officers became the first Department in the country to test ear-mounted cameras. The pilot program lasted approximately six months and anecdotal evidence suggests the program had mixed results, due in part to the technological limitations of the equipment. Chief Christopher Moore has expressed a willingness to further explore the potential use of more recent iterations of this technology, and Independent Police Auditor Judge Cordell has strongly advocated for it, as demonstrated by the attached op-ed, which appeared in the *Mercury News* on December 20, 2011.

Council will benefit from a report regarding the Department's experiences with the AXON pilot program to ensure we have a better understanding of the pros and cons to using this kind of technology. Staff should also seek the input from members of the law enforcement community, such as Chief Moore, San José POA, the District Attorney, and Public Defender's Offices, as well as from other police departments that have experience with it. As with any new application of technology, unintended consequences and burdens can arise, such as whether the police department has the administrative capacity to routinely review and produce film as part of its submission of case files to the District Attorney's office. We should assess these costs before expending our limited capacity to seek federal grants for this public safety objective, but should also fully consider the opportunities in doing so.