

Office of Police Ombudsman In Car Video Recommendation

In car camera technology for law enforcement vehicles has become increasingly common. According to the United States Bureau of Justice, 60% of police departments and 66% of sheriff' offices now use video cameras in their vehicles. Similarly, a 2004 International Association of Chiefs of Police (IACP) In Car Camera Study found that 97 % of the citizens polled across the U.S. supported the use of in-car cameras for law enforcement.

In Car Video cameras have many proven benefits to law enforcement including:

- Enhancing officer safety,
- Advancing prosecution/case resolution,
- Reducing agency liability,
- Simplifying incident review,
- Enhancing new recruit and in-service training,
- Improving agency accountability,
- Improving community/media perceptions of law enforcement,
- Enhancing officer performance and professionalism, and
- Assessing use of force and other police/citizen interactions

With regards to resolving complaints against officers the International Association of Chiefs of Police conducted a study in 2002 and found that when an event was recorded, 96.2% of officers accused of misconduct were exonerated by the recording. Only 3.8% of complaints were substantiated by the recordings.

While budget limitations will always be a factor, it is the opinion of the Office of Police Ombudsman that given increasing concern regarding law enforcement's interaction with the community in conjunction with available data from the National Law Enforcement Officers Memorial Fund indicating a 37% increase in line-of-duty deaths in 2010, that implementation of an in-car video program needs to be a high priority for the Office of the Mayor, the Office of the Chief of Police and for the Police Guild during contract negotiations in 2011.

The Ombudsman recognizes that there is a significant cost in recommending the installation of in car video equipment. However if the goal is to increase public trust through transparency then the cost for installation versus the value gained makes the cost priceless. Conceptually this is risk management at its most basic level. To facilitate the creation of this program, the Office of Police Ombudsman recommends that an interdisciplinary committee be formed to develop an implementation plan.

POLICY COMPONENTS

In 2008, the Spokane Police Department researched and tested the use of in car video (also referenced as "Mobile Audio Video") within their fleet. The intention of the program was to "assist and compliment uniformed officers in the performance of their duties by providing an unbiased visual and/or audio record of certain activities and to supplement the reporting

process." Although a policy was developed and adopted, lack of funding prevented the project from being implemented.

While cost may prohibit implementation of an In Car Video Program within the Spokane Police Department in 2011, there is opportunity to develop a solid foundation for the program through review and improvement of the current policy. For that purpose, the Office of Police Ombudsman recommends the following policy considerations for use of in car video:

Data Capture/ Video Activation

Current Spokane Police Department policy requires the activation of the Mobile Audio Video (MAV) system in the following situations:

- (a) All field contacts involving actual or potential criminal conduct, within video or audio range, which includes:*
 - 1. *Vehicular pursuits.*
 - 2. *Suspicious vehicles.*
 - 3. *Arrests.*
 - 4. *Pedestrian checks.*
 - 5. *DUI investigations including field sobriety tests.*
 - 6. *Consensual encounters.*
 - 7. *Responding to an in progress call.*
- (b) All self initiated activity in which an officer would normally notify the Combined Communications Center.*
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect, such as:*
 - 1. *Domestic violence calls.*
 - 2. *Disturbance of peace calls.*
 - 3. *Offenses involving violence or weapons.*
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.*
- (e) Any other circumstances where the officer believes that a recording of an event would be appropriate.*

The Office of Police Ombudsman agrees that this language should be maintained but would like to include specific language in sub section (a) to include "all vehicle stops for traffic violations".

Documentation

Any incident that was recorded with either the video or audio system shall be documented in the officer's report. If a citation was issued, a notation shall be placed on the back of the records copy of the citation that the incident was recorded.

Retention

Current Spokane Police Department policy states that all video media not booked in as evidence be “retained for as long as any crime may be charged based on the events or communications or conversations recorded or for a minimum of one year, whichever is longer.” This is noticeably longer than in other regional jurisdictions. For example, while state law dictates that law enforcement in car video be stored and retained until the adjudication of all related criminal, civil or administrative cases, Seattle’s alternate retention date is only 90-days.

While the current retention rate is ideal for the purposes of the Office of Police Ombudsman (given time restraints on filed complaints), there is cost associated with this extended retention cycle. It is the opinion of the Office of Police Ombudsman that the current policy relating to retention of in car video be maintained in its present state.

Review of In Car Video Recordings

Current Spokane Police Department Policy dictates that in car video recordings may be reviewed in the following situations:

- (a) By a supervisor for performance review or investigating a specific act of officer conduct.*
- (b) By a department detective after approval of a supervisor who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation.*
- (c) By department personnel who request to review their own recordings (a written request is required).*
- (d) By court personnel through proper process or with permission of the Chief of Police or his/her designee.*
- (e) By media personnel with permission of the Chief or his/her designee except that (no sound or video recording may be made available to the public until final disposition of any criminal or civil litigation which arises from the event or events which were recorded (RCW9.73.090(1)(c)).)*
- (f) Recordings may be shown for the purposes of training value. If an involved officer objects to the showing of recording, his/her objection will be submitted to staff to determine if the training value outweighs the officer’s objection for not showing the recording.*

Consistent with other jurisdictions, Spokane’s in car video policy does not allow for the use of video to randomly “spot-check” officer performance. If video is reviewed in conjunction with a citizen’s complaint, investigation, or pending court case and violations of Department policy are observed, appropriate corrective action may be taken in regard to those violations.

TOPICS FOR COMMITTEE CONSIDERATION

To facilitate implementation of a Spokane Police Department In Car Video program within a reasonable amount of time, the Office of Police Ombudsman has recommended that an

interdisciplinary team of City employees be convened during 2011 to study various feasibility issues. At minimum, this team should consist of representatives from Police Department, Risk Management, City Legal and the Office of Police Ombudsman.

The Office of Police Ombudsman suggests the following topics for study by the interdisciplinary team:

Installation Funding

In 2008, the Spokane Police Department determined that it would cost approximately \$415,000 for equipment and \$500,000 for server improvements and software required for storage and editing of the in car video. Prior to adding the cost of full-time employees required to administer the program, the total approximate cost to implement the fleet with in-car video was approximately \$1,000,000.

Given the passage of time, current and planned changes in the make-up of the patrol fleet (i.e. transition away from Crown Victorias), and technology changes it is likely that these estimates have increased although an updated quote was not available at the time of this report.

Ongoing Funding and Resources

Any system purchased will carry a staffing commitment for system selection, installation, and training. In the long term, staff time will be required for system and data management, records redaction and on-going maintenance.

Recurring costs may also include:

- Staff time for initial and recurring training
- Full-time staff needed for maintenance and redaction
- Replacement costs

Technical Specifications

In 2008, the Spokane Police Department met with vendors from several companies to evaluate options for in-car video systems. SPD tested COBAN, ICOP, and L3 video systems in approximately 40 fleet vehicles. The systems were installed and run for approximately three months each.

Technical issues regarding the data quality standards, preferred upload methods, and the type of data management system should be considered by the interdisciplinary team. Several procedural issues related to specific responsibilities of officers, supervisors, and program supervisors will need to be resolved once a specific system is selected.

In regard to technical specifications, committee members may benefit from attending the Law Enforcement and Emergency Services Video Association's Annual Mobile Video Summit which will take place in Coeur d'Alene in October 2011.

Implementation Timeline

The ombudsman recommends that all marked units used for patrol be outfitted with digital video cameras by December 31, 2012.

Integrity of Recording

The integrity of in-car video and audio recordings is crucial to the usefulness of the data for evidentiary purposes and for resolving misconduct allegations. Current Spokane Police Department policy dictates - Only in exceptional circumstances will original video media be booked into evidence. The exceptions would include a major event such as a homicide or as directed by the Shift Commander or a member of staff.

While the current policy provides instruction on the treatment of video as evidence, on-going changes in case-law and best practices make; particularly as it relates to the use of in-car video as part of a larger risk management plan. As recently as January 2011, the Department of Justice has sought comments on new standards cover testing, rules of evidence, and other performance standards for in-car digital video systems.



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[RCWs](#) > [Title 9](#) > [Chapter 9.73](#) > [Section 9.73.090](#)

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RCW 9.73.090

Certain emergency response personnel exempted from RCW 9.73.030 through 9.73.080 — Standards — Court authorizations — Admissibility.

(1) The provisions of RCW ~~9.73.030~~ through ~~9.73.080~~ shall not apply to police, fire, emergency medical service, emergency communication center, and poison center personnel in the following instances:

(a) Recording incoming telephone calls to police and fire stations, licensed emergency medical service providers, emergency communication centers, and poison centers;

(b) Video and/or sound recordings may be made of arrested persons by police officers responsible for making arrests or holding persons in custody before their first appearance in court. Such video and/or sound recordings shall conform strictly to the following:

(i) The arrested person shall be informed that such recording is being made and the statement so informing him shall be included in the recording;

(ii) The recording shall commence with an indication of the time of the beginning thereof and terminate with an indication of the time thereof;

(iii) At the commencement of the recording the arrested person shall be fully informed of his constitutional rights, and such statements informing him shall be included in the recording;

(iv) The recordings shall only be used for valid police or court activities;

(c) Sound recordings that correspond to video images recorded by video cameras mounted in law enforcement vehicles. All law enforcement officers wearing a sound recording device that makes recordings corresponding to videos recorded by video cameras mounted in law enforcement vehicles must be in uniform. A sound recording device that makes a recording pursuant to this subsection (1)(c) must be operated simultaneously with the video camera when the operating system has been activated for an event. No sound recording device may be intentionally turned off by the law enforcement officer during the recording of an event. Once the event has been captured, the officer may turn off the audio recording and place the system back into "pre-event" mode.

No sound or video recording made under this subsection (1)(c) may be duplicated and made available to the public by a law enforcement agency subject to this section until final disposition of any criminal or civil litigation which arises from the event or events which were recorded. Such sound recordings shall not be divulged or used by any law enforcement agency for any commercial purpose.

A law enforcement officer shall inform any person being recorded by sound under this subsection (1)(c) that a sound recording is being made and the statement so informing the person shall be included in the sound recording, except that the law enforcement officer is not required to inform the person being recorded if the person is being recorded under exigent circumstances. A law enforcement officer is not required to inform a person being recorded by video under this subsection (1)(c) that the person is being recorded by video.

(2) It shall not be unlawful for a law enforcement officer acting in the performance of the officer's official duties to intercept, record, or disclose an oral communication or conversation where the officer is a party to the communication or conversation or one of the parties to the communication or conversation has given prior consent to the interception, recording, or disclosure: PROVIDED, That prior to the interception, transmission, or recording the officer shall obtain written or telephonic authorization from a judge or magistrate, who shall approve the interception, recording, or disclosure of communications or conversations with a nonconsenting party for a reasonable and specified period of time, if there is probable cause to believe that the nonconsenting party has committed, is engaged in, or is about to commit a felony: PROVIDED HOWEVER, That if such authorization is given by telephone the authorization and officer's statement justifying such authorization must be electronically recorded by the judge or magistrate on a recording device in the custody of the judge or magistrate at the time transmitted and the recording shall be retained in the court records and reduced to writing as soon as possible thereafter.

Any recording or interception of a communication or conversation incident to a lawfully recorded or intercepted communication or conversation pursuant to this subsection shall be lawful and may be divulged.

All recordings of communications or conversations made pursuant to this subsection shall be retained for as long as any crime may be charged based on the events or communications or conversations recorded.

(3) Communications or conversations authorized to be intercepted, recorded, or disclosed by this section shall not be inadmissible under RCW ~~9.73.050~~.

(4) Authorizations issued under subsection (2) of this section shall be effective for not more than seven days, after which period the issuing authority may renew or continue the authorization for additional periods not to exceed seven days.

(5) If the judge or magistrate determines that there is probable cause to believe that the communication or conversation concerns the unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter ~~9A.50~~ RCW, or legend drugs as defined in chapter ~~9A.41~~ RCW, or imitation controlled substances as defined in chapter ~~9A.52~~ RCW, the judge or magistrate may authorize the interception, transmission, recording, or disclosure of communications or conversations under subsection (2) of this section even though the true name of the nonconsenting party, or the particular time and place for the interception, transmission, recording, or disclosure, is not known at the time of the request, if the authorization describes the nonconsenting party and subject matter of the communication or conversation with reasonable certainty under the circumstances. Any such communication or conversation may be intercepted, transmitted, recorded, or disclosed as authorized notwithstanding a change in the time or location of the communication or conversation after the authorization has been obtained or the presence of or participation in the communication or conversation by any additional party not named in the authorization.

Authorizations issued under this subsection shall be effective for not more than fourteen days, after which period the issuing authority may renew or continue the authorization for an additional period not to exceed fourteen days.

[2006 c 38 § 1; 2000 c 195 § 2; 1989 c 271 § 205; 1986 c 38 § 2; 1977 ex.s. c 363 § 3; 1970 ex.s. c 48 § 1.]

Notes:

Intent -- 2000 c 195: "The legislature intends, by the enactment of this act, to provide a very limited exception to the restrictions on disclosure of intercepted communications." [2000 c 195 § 1.]

Severability -- 1989 c 271: See note following RCW ~~9.94A.510~~.

Severability -- 1970 ex.s. c 48: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional." [1970 ex.s. c 48 § 3.]