

THE BILL BLACKWOOD  
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OF TEXAS

IN-CAR VIDEO SYSTEMS:  
EXAMINING THE POSSIBILITIES

A Policy Research Project  
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## **ABSTRACT**

Police agencies and criminal prosecutors have long sought credible ways to provide a means of accurately showing juries the evidence that truly paints a picture of what transpired during the commission of crimes. Police agencies, additionally, have sought ways to document their officer's conduct during citizen contacts, both for training and reasons of liability. Technology for today's law enforcement community is making rapid strides in this area. In recent years several companies have developed systems for accurately documenting an officer's activities on patrol by means of mobile video recording systems. The purpose of this research project is to examine ways that in-car video systems are being used in law enforcement and the impact such systems are making. Comparisons will be made of how other agencies are using these devices, and whether or not their use has proven to be an asset. The comparison method, through interview, survey, and a review of relevant literature shows consistently that use of these devices is providing a valuable advantage in all of these areas. The Lubbock Police Department could benefit from implementation of a fleetwide in-car mobile video system. Enacting this type of program could prove to be beneficial in the areas of training, officer safety, citizen complaints, and civil liability. Information investigated in this project will assist the City of Lubbock and the Lubbock Police Department in developing a policy statement regarding the implementation of in-car video systems.

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## **Introduction**

The purpose of this research project is to examine current police usage of in-car video systems and determine what impact they are having upon the law enforcement community. For many years the contacts between officers and the public have resulted in one person's word against the other when an incident finally makes it to the courtroom. New strides in technology involving mobile mounted audio/video devices have enabled police officers to document their activities and observations by way of video taped evidence. Some uses of in-car recording include training, officer safety, evidence of crimes, and investigating complaints made against the police.

The intended audience of this project is the Lubbock Police Department Command Staff, the City Manager, and the Lubbock City Council. The Police Department will use the information to determine what benefits could be realized through acquisition and use of this equipment, and to develop a policy position to support or oppose it's implementation.

Various sources of information are included in this research project. Law enforcement publications are used to show how other agencies have implemented such plans. Survey results from other agencies that have these plans in use will be used to determine what effects they are experiencing. Texts written by legal experts in the field of mobile video taping will be examined. Relevant court opinions regarding

admissibility of video taped evidence will be reviewed. This project will be used to determine if the purchase and installation of in-car video systems could prove to be a useful undertaking. It will explore how other agencies are utilizing this method, and what successes or problems they are encountering. That information will then be used to formulate a public policy with regard to the purchase, installation, and use of in-car video recording for the Lubbock Police Department.

### **Historical, Legal, or Theoretical Context**

The search for truth in our "due process" form of government is a key element in the criminal justice system. Whether dealing with complaints against an officer or evaluating probable cause in a criminal case, having an independent and accurate account of the event would prove to be most helpful. One such way to provide this account lies in twentieth century electronic technology: the video camera. "The concept is simple. A compact, high-resolution video camera mounted near the rearview mirror inside the windshield of a squad car records through its wide-angle lens whatever happens in front of the car, while a lightweight wireless audio microphone worn by the officer picks up everything that is said by both the suspect and the officer." (Law & Order February 1990, 55)

Many state agencies are now using in-car video systems. In the State of Georgia, for example, "the in-car video program has made a significant impact on state government, and has renewed public confidence in the Department of Public Safety and the State Patrol." (Johnson, 1992, 2). The Texas Department of Public Safety, who had

practically no cars equipped with these devices in 1988, today has obtained a sufficient number to outfit the entire Highway Patrol fleet. (Smith, 1998).

Tapes made by in-car video systems are being used in the courtroom to display to the jury what took place during the incidents in question. "Because of its versatility, video has become one of the better modern courtroom tools, and is especially valuable in DWI cases." (Pilant, 1995, 32) "The jury can now see what the officer saw, hear what the officer heard, and feel what the officer felt." (Kuboviak Mobile Video Taping: How to win a DWI in Court LET June 1994 52) "Federal, state, and local police officials, as well as prosecutors in the Department of Justice and state court systems agree the in-car video technology has become an indispensable asset for law enforcement and criminal investigative programs." (Johnson, 1992, 2) It can even lead to the settlement of cases without the need for costly trials. Several departments, "have found that using video results in higher conviction rates and reduced court time for officers." (Pilant, 1995, 33) One such agency reported that utilization of in-car videotape, "experienced a 50 percent reduction in overtime court costs, a savings that paid for the expense of the mobile video system. (Pilant, 1995, 33)

"According to officials of the Georgia Department of Public Safety, the legal basis for the use of the video, and its greatest supporting element, is that it operates under the plain view doctrine - that is, a reasonable expectation of privacy is diminished." (Johnson, 1992, 5) Admissibility of the tapes in a court of law is at the court's discretion. (United States v. Clayton, 643 F.2d 1071 5<sup>th</sup> Cir. 1981). James M. Kuboviak, the County Attorney in Brazos County Texas, and a leading author on the subject,

discussed admissibility in a feature article for *The Prosecutor* magazine. In it, he said that he has found that , “the Fifth Circuit treats videotape evidence as a ‘silent witness’ which speaks for itself, independently of a sponsoring witness.” He also said that state courts and federal courts, “are treating videotape evidence as photographs under Federal Rules of Evidence 1001 (2).” (Kuboviak, Mobile Videotaping: Admissibility)

Liability against false allegations is another reason that many departments are developing in-car video programs in their departments. It was an “internal affairs department complaint” that directly prompted the Kennendale, Texas Police Department to install the system. (Vehicle-Mounted TV Law & Order February 1990, 56) “In fact, video may be the only accurate witness when it’s the officer’s word against a citizen’s, since it is not subject to the vagaries of recall, interpretation, or human misconception that defense lawyers often use to refute eyewitness testimony.” (Pilant, 1995, 32) Lois Pilant also documented that, “Complainants who learn of the existence of the videotape or are given a private screening often drop their lawsuits.” (Pilant, 1995, 33) Such usage of video evidence, “saves the department valuable time and resources in countering groundless claims.” (Video Used in Citizen Complaint Cases, FBI Bulletin November 1991 , 4)

Training is another arena where in-car video has been successfully used in recent years. “ One of the side benefits of mobile videotaping is that it has provided a host of actual taped arrests for review by both veteran and rookie officers.” (Kuboviak The Importance of Mobile Video as a Training Tool - The Police Chief, November 1995, 50) Kuboviak, in an article for *The Police Chief* (Nov. 1995, 50) notes that in traffic stops,

“recruits may be evaluated on their knowledge of the law, effectiveness in dealing with the violator, and officer safety among others.” Kuboviak spoke of a video of Constable Darrell Lunsford’s murder in Texas. He said, “Used as a training device by law enforcement agencies around the country, this video- along with others that are less emotional- provides a training impact that could not be duplicated at any cost.” (Kuboviak, 1995, 50) Additionally, “as an in-service training tool, they reinforce appropriate behaviors and safety habits, and improve interpersonal skills.” (Pilant, 1995, 33) “Watching an eyewitness tape, even seasoned law enforcement professionals doing routine police work catch small mistakes that could make them vulnerable to the dangers of facing offenders on the road.” (Vehicle-Mounted TV Law & Order February 1990, 57)

### **Review of Literature or Practice**

The findings of several independent researchers on the subject are very similar and each have found more positive aspects of in-car video systems over their negative aspects. Mark Johnson, an research associate with the Center for Environment of the Council of State Governments, conducted an in depth look into the Georgia Highway Patrol’s in-car video program. He related that, “costs should be straightforward,” but that, “equating benefits may be elusive. Variables include anticipated increases in conviction rates; reduction in time officers spend in court providing testimony; time spent adjudicating cases decreasing the burden on the court system; value as a law enforcement training aid for cadets and veterans; reduction in citizen complaints; and improved morale

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and increased safety for affected officers.” (Johnson, 1992, 7)

“Mobile video may be one of the bigger assets in police work yet,” according to Lois Pilant. (Pilant, 1995, 32) For example, in the murder of Constable Darrell Lunsford of Texas, the dash camera footage was crucial. “It was the video tape from this camera that provided the only clue to Lunsford’s killers.” (Pilant, 1995, 32) It was this evidence that eventually led to the conviction of his killers.

One area where many agencies are putting the cameras to use is in the enforcement of DWI laws. According to Jim Kuboviak, the jury, “wants the officer to prove ‘falling down drunk’ rather than the real issue of legal intoxication or impairment. Law Enforcement mobile-videotaping application helps resolve these issues.” Since the jury sees what the officer saw at the scene, it shows that the DWI offender was in fact a real danger. “Mobile videotaping shows the particular DWI as a vehicular death that had not happened yet.” (DWI Mobile Videotaping for Police & Prosecutors-Kuboviak, 1996, I-5)

A survey of several departments in Texas provided practices and policies of other law enforcement agencies with regard to this project. The findings were very similar in many respects. For example, a response by Grand Prairie Police Department cited, “Improved DWI documentation and pursuit documentation,” as well as usage in criminal cases, “especially DWI.” (Fowler, 1998) Major Lee Smith, of the Texas Department of Public Safety, echoed this response, noting, “enhanced evidence gathering capabilities (DWI), pursuits, verbal and physical confrontations, crime scenes, accident scenes, and criminal apprehensions.” (Fowler, 1998)

The responses to the survey in the area of citizen complaints were, likewise, similar across the state. "Yes- complaints are dropped once citizens are informed of a camera recording," was the response from Darla Frazier, Administrative Manager, of the Garland Police Department. (Fowler, 1998) "Reduced complaints- faster complaint resolution and added evidence in court," was the indication from Farmer's Branch Police Department's Captain Reece Daniel." (Fowler, 1998) Sergeant Charles Bahr of the Highland Village Police said, "They are helpful...It, in most cases, clearly depict exactly what happened during the incident. Sometimes we'll show the tape and let them see if they realize what their demeanor was, or why an officer reacted to a movement, etc." (Fowler, 1998)

The opinion of most patrol officers on mobile videotaping is a positive one. Steven Shaw, in his study of the subject, reports that eighty-three percent of officers in a random poll of Suffolk County, New York, said that they would be in favor of having the camera in the patrol car. Arthur Sharp, speaking about the results of another poll of officers, said that, "many officers would welcome videotaping in order to protect themselves and to improve their performance." (Sharp, 1992, 66) In the survey conducted for this policy research project, with over 30 departments responding statewide, there is a clear indication that most officers feel the mobile video systems are a welcome addition to their profession. Approximately seventy-three percent of the departments currently using the systems reported favorable officer response. Twenty-three percent reported a mixed, half-and-half, or varied response by officers, while only approximately four percent reported a negative attitude toward mobile video systems.

(Fowler, 1998)

### **Discussion of Relevant Issues**

The key issues involved in implementing a mobile in-car video system include its usage and practicality in the following areas: evidence in criminal cases, unbiased documentation in citizen complaints against police, reduction of liability for police agencies, in-service and basic training, and officer safety concerns.

Many departments using in-car videotape as evidence, are currently reporting increased conviction rates among DWI, drug interdiction encounters, and assaults against officers. Current case law states that when properly made and stored, these tapes are admissible in both criminal and civil courts. Proper training is crucial to ensure that the officers know how to utilize the cameras as well as how to ensure admissibility of the tape in court.

Complaints against officers are often difficult to resolve. Many times this results from differing accounts as to what really took place. A large portion of this gray area can be illuminated with the usage of in-car video systems. The tape provides an independent and accurate version of what occurred during the encounter. This speeds up the complaint investigation process and helps to either correct the officer's actions, or exonerate him/her regarding the allegation. When an officer is videotaping an incident, he is more likely to act in a professional manner and conduct himself accordingly.

Reduction in liability for law enforcement is a major topic of discussion in police circles today. Civil lawsuits often target actions involving the use of force, unlawful

arrest allegations, civil rights violations, and wrongful death. In these cases it is imperative to be able to show what the officer saw, heard, and reacted to. Frame by frame video from dash cameras have successfully been utilized by police witnesses to illustrate how an officer's actions were appropriate and justified. Expert witnesses in the field of use of force and defensive tactics can analyze the video and provide relevant testimony.

Training is an ongoing and vital element of the modern police agency. One of the best ways to learn is through watching and listening in combination. Video taped incidents provide a tool for reviewing both basic recruits at the academy as well as for seasoned officers. Learning through the mistakes of other officers who have been injured or killed in the line of duty is a lesson most will not soon forget. Training officers can use these videos to point out mistakes made and ways to avoid repeating them. The tapes put an element of reality into training that is often only simulated.

Officer safety should be a concern of all law enforcement officials. Using in-car video increases officer safety in many instances. Officers viewing their own videos have learned about mistakes they were making during citizen contacts that could be life threatening under some conditions. This allows them the opportunity to actively think about their actions and adjust to the situation in as safe a manner as possible.

Several constraints are involved in implementing an in-car video program. Training in the use of the system properly is one concern that must be addressed. In order to effectively operate the system and collect the best tape possible, the officer needs time

to practice with the equipment and conduct hands on training. Learning the system's limits and assets is important. This is also a point at which the positive aspects of video taping can be related to that portion of officers that are unsure or opposed to the program

Other constraints include developing policies to administer and fund the purchase of the systems. A well thought out and well-written policy should be the foundation of any plan to implement a video tape system. Concerns that must be addressed are physical security of the tapes, an unbroken chain of evidence, rotation of tapes that are not evidence or in question after a specified time, and rules on when taping is mandatory or voluntary. The policy must also spell out who may duplicate the tapes, erase the tapes, and view the tapes. An appropriate and secure area in which to store the tapes must be established and its utilization methods included in the policy manual.

Opportunities available to a law enforcement agency through an in-car video system program are numerous. They include improved training, timely and accurate inquiries into citizen complaints, increased officer safety, and reduced liability. The use of the tapes as evidence in court has shown to be beneficial in reducing overtime costs as well as in increased conviction rates.

In-car video systems are expensive. The survey conducted for this project finds the majority of the respondents utilizing the Kustom Signals Eyewitness brand system. This is also the system that is currently on the state bid for Texas. It is the system that was most recommended by respondents to the survey. This system costs just under \$5,000 per vehicle. Additional costs involved include purchasing blank tapes, additional microphone transmitters, batteries for transmitters, installation and maintenance of a

secure storage area, and training for the officers involved. Several respondents to the survey have strongly cautioned against the purchase of cheaper unreliable systems that have high maintenance costs and downtime for repairs.

It is not possible to figure in an accurate cost/benefit analysis of establishing an in-car video program. The initial and maintenance expenditures are easy to estimate and calculate in advance. Benefits of such a system are more intangible. It would be impossible to accurately determine a financial gain acquired through their implementation. Among the areas where cost savings are expected to occur are reduced court appearances and overtime budgeting, fewer injuries to officers, and less liability in civil litigation. Some of these same areas could also be affected by using the videos to improve training, which also, could result in reduced complaint investigation, and the ability to ensure that officers are performing in a professional and ethical manner. Each of these issues carries with it a financial price tag, but one that cannot easily be enumerated.

### **Conclusions/Recommendations**

The purpose of this research project is to examine the many ways that in-car video systems are being used in law enforcement and to determine the impact such systems are making. This subject is relevant in the modern law enforcement community for several reasons. Civil liability, the training of personnel, increased professionalism, and the development of reliable evidence in criminal cases are all topics on the forefront of the police community. These also happen to be areas where significant impact can be made

through the use of in-car video systems.

A major problem that has existed for years in law enforcement is the point where what an officer or civilian did during a police contact comes down to the officer's word against the civilian's. This can become crucial when dealing with false complaints lodged against an officer, as well as when improper conduct by the officer needs to be exposed and eliminated. Having an independent witness that can accurately and fully describe the encounter is often unlikely. Use of a video recording system to properly document these encounters provides just such a witness.

The research done for this project reveals that the great majority of departments with such a program in place have found it beneficial, and are planning to continue or expand their programs. Most stated they felt it was well worth the expense, and that it resulted in time and expense saved in several other areas.

In conclusion, it is recommended that a policy supporting the implementation of an in-car video program be adopted. It is further recommended that the city research possible areas of funding such a program. This would be a definite step toward increased public confidence toward the Police Department and professional service toward the public we serve.

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