

**THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

Practical Applications of Mobile Video Cameras
in Police Patrol Vehicles

**A POLICY RESEARCH PROJECT
Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
Graduate, Management Institute**

by
Shaun Pendleton

Longview Police Department
Longview, Texas
July, 1999

TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical, Legal or Theoretical Context	2
Review of Literature or Practice	5
Discussion of Relevant Issues	7
Conclusion/Recommendation	9
Bibliography	

ABSTRACT

Police officers are involved in diverse situations on a daily basis. These include everything from simple field interrogations to family violence calls to high speed pursuits and felony traffic stops. Unfortunately with the current legal atmosphere, nearly everything a police officer does is scrutinized for possible litigation. The actions of a police officer has the potential of getting him sued for large sums of money.

The purpose of this policy research project is to provide information to the Longview City Council to assist them in determining if in-car mobile video cameras should be placed in Longview Police Department patrol vehicles. Studies by other police agencies as well as the policies of several law enforcement organizations and court cases have been reviewed to obtain information concerning the usefulness of in-car mobile video cameras. This policy research project demonstrates the need for in-car mobile video cameras and a policy governing their use.

INTRODUCTION

The purpose of this policy research project is to provide information to the Longview City Council concerning in-car mobile video cameras and to assist them in determining the effectiveness and benefits of placing the cameras in patrol cars. Mobile videotaping is a valuable tool in a law enforcement officer's daily war on crime.

The placement of video cameras in Longview Police Department patrol cars will assist field training officers in training exercises with probationary officers as well as alleviate the problem of unsubstantiated complaints on officers from the citizens. The burden of proof is on the police officer and the prosecution at trial to prove the actions of the officer were legal and the suspect's civil and constitutional rights were not violated. In today's litigious society, the use of mobile videotaping equipment dispels any fiction and precisely documents the actions of the officer.

A video will show the officer's probable cause and suspicion for stopping the suspect as well as any problem or alleged improprieties during the contact or arrest of the suspect. The use of in-car cameras combines audio of the officer as well as the suspect, coupled with the video of the suspect's actions. These videotapes provide a detailed, chronological sequence of events that will hold up against cross-examination in court. The cameras are also an invaluable training tool allowing field training officers to critique officers during their contacts with the public, allowing the training officer to point out any problems or mistakes the probationary officer might have made as well as the correct things he did.

If the City Council determines that cameras should be placed in patrol cars, a policy governing their use must be developed. The information contained in this paper comes from

numerous journals, law enforcement departmental policies and court opinions. The intended outcome of this policy research project is to provide valuable information and show the validity and necessity of placing video cameras in Longview Police Department patrol cars.

HISTORICAL, LEGAL, OR THEORETICAL CONTEXT

Police officers began experimenting with video cameras in the 1960's and 1970's but most generally discovered that the equipment required too much space in their patrol cars. In 1983 the Bountiful, Utah police department began to experiment with full-sized mobile video recorders. These cameras were funded through liquor sales tax revenues. A major drawback of these cameras were they needed two officers in order to work, one to drive the patrol car and one to operate the camera (Kuboviak 1991).

In 1986, the Georgia State Patrol equipped their patrol vehicles with mobile video cameras using drug seizure money. Since then, many of the officers have come to rely on the videotape as a backup to their actions. A 99.5 percent conviction rate has been maintained by law enforcement agencies in Brazos County in their mobile videotaping programs. During an unrelated program in 1989, Harris County, Texas, compiled a 100 percent conviction rate, and during this time only nine officer hours were spent in court on 90 adjudicated cases (Kuboviak 1991). Since the fall of 1991 the use of in-car mobile video cameras has spread to 38 states (Kuboviak 1993).

One of the first and foremost concerns is the admissibility of the recordings. Federal Rules of Evidence 901 states that: "the requirement of authentication as a condition precedent to the admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what it's proponent claims."

A suspect might argue that a video recording of him being arrested is prejudicial, however, these recordings are admissible despite these arguments (*United States v. Cochran*, 697 F.2d 600). Also of concern is the question of whether a suspect has to be advised that he is being recorded. Under Fourth Amendment issues, the question arises as to whether a police officer may record conversations between co-defendants in his patrol car when the officer is not a party to the conversation. State and Federal cases have established a general rule that prisoners in jail have a limited expectation of privacy, and that detention facilities may exercise continuous surveillance of inmates (Kuboviak 1993).

California and Florida are the leading states offering authority in this area. The California Court of Appeal decided that: "reasonably, the right of a defendant to privacy while under arrest in a police car can be no greater than if he were confined in jail" (Kuboviak 1993). The case from Florida of *Brown v. State* went so far as to state that: "once a person is taken into custody by law enforcement authorities, his right to privacy has been effectively diminished, and he has no reasonable expectation that his conversations will be private" (*Brown v. State* 349 So.2d. 1196, 1197).

After consideration of the expectation of privacy issue, the issue of a defendant's Fifth Amendment right against self-incrimination follows. The leading case comes from the Fifth Circuit and speaks directly to police car recordings. The court stated:

Miranda was designed to curb unfair methods of custodial interrogation; it does not protect spontaneous utterances made by detainees mistakenly believing that they will not be overheard nor forbid police, under Fifth Amendment sanction, from setting snares (*Stanley v. Wainwright* 604 F.2d 379,381).

Police officers continue to have the option of informing defendants of their Miranda

rights before placing them in the patrol car. They may if they wish to, even inform the defendant that they are being recorded. Neither of these options, however, are required under law. Though all states have differences in statutory as well as case law, there are many similarities. There are many Texas and United States Supreme Court cases applicable to videotaping for law enforcement purposes. In *Edwards v. State*, the court established the foundation needed for the admission of *sound* recordings.

The court found that the tape recording device must be capable of taking testimony and the fact that the device worked and did, in fact, record the voices was evidence enough (*Edwards v. State* 551 S. W. 2d 731). Mobile videotaping also plays an integral part in DWI (Driving While Intoxicated) enforcement. A very important case in this area is *Diane Dell Davis v. State*. The appeals court hearing the case handed down two important decisions. The first being that officers may ask the defendant to perform field sobriety tests and the defendant does *not* have the right to counsel during this time.

The second decision handed down by the court was that the defendant may not claim the Fifth Amendment right to refuse to answer questions which would not normally be responded to with an incriminating answer, i.e., "booking" information questions (*Diane Dell Davis v. State* #C14-89-00813CR). The leading case from the United States Supreme Court is *Pennsylvania v. Muniz*. This case backs up the Texas case of *Diane Dell Davis v. State*. In effect what the Pennsylvania case determined was that routine booking questions may be admissible evidence despite the lack of constitutional warning, that standardized field sobriety tests do not violate the defendant's Fifth Amendment privileges against Self-incrimination, and that custodial interrogation questions are not admissible if the defendant has requested the assistance of an

attorney or invoked his constitutional rights (Pennsylvania v. Muniz 11 OS. Ct. 2638).

REVIEW OF LITERATURE OR PRACTICE

During a ten-month pilot program conducted by the Texas Department of Public Safety, video cameras were placed in three of their vehicles in Brazos County. As a result, 49 Driving While Intoxicated mobile video cases were filed between July 1, 1989 and May 31, 1990. Of those accepted, ten resulted in guilty pleas (Kuboviak 1991).

E.C. Sherman who was placed in charge of researching mobile videotaping for the Texas Department of Public Safety, concluded that officers participating in the program:

(a) spent from less to substantially less time in court because of mobile video, (b) the court time saved is approximately 60 percent from what it had been before the advent of mobile video, (c) there is a general feeling of increased officer safety associated with the use of mobile video, and (d) that they prefer working with the mobile video system (Sherman 1991).

In a 1989 random poll of Suffolk County, New York, police officers, conducted by *Law Enforcement Technology* magazine, a whopping 83 percent of the officers questioned said they would be in favor of having mobile video cameras in their cars (Shaw 1989). Chief Louis Featherholf of the Fallon, Nevada, Police Department addressed the subject of mobile video cameras with his force of 19 officers. Initial reactions were negative, however, after a positive presentation, they are now 100 percent for it (Pilant 1995).

There is no perfect tape, but depending on the techniques used by the officer, the tapes have a higher evidential value in front of the judge or jury. Articulation is a key component of a good video. Police agencies have found that officers cannot over-articulate during a video. In the case of a Driving While Intoxicated investigation video, statements such as, "the suspect has handed me a credit card instead of the requested driver's license," will go a long way with a jury

(Kuboviak June 1994).

The use of the in-car mobile camera varies from agency to agency. The standard operating procedures for most departments dictates the camera be activated anytime the patrol unit's emergency equipment is turned on. While most citizens believe the camera is used strictly for traffic stops, it actually has a wide range of useful functions. Police agencies across the country use the camera to record crime and accident scenes, Driving While Intoxicated sobriety tests and interviews, crowd and riot situations as well as arrests.

The Bellaire, Texas Police Department, requires the camera be on and recording at all times with the exception of meal breaks and when the officer is at the police station (Bellaire, Tx. Police Dept. 1999). At the other end of the spectrum, the Bangor, Maine Police Department does not require their officers to even use the video equipment, and if they use it , the use of audio is at the discretion of the officer (Bangor, Me. Police Dept. 1996).

Many law enforcement agencies have found the video camera to be a tremendous tool in the training of new officers. The main objective of the Field Training Officer (FTO) program is to systematically critique a new officer's performance and correct poor police practices. Another objective is to provide documentation of recruit attitude and ability (Kuboviak March 1994). The videotape allows the FTO to review citizen contacts with the recruit and point out specific mistakes made by the recruit in such a way that the recruit can actually *see* and *hear* what he did wrong. This in effect leads to a higher degree of training and more positive results.

Police officers should be made aware that the videotapes they make will be reviewed by a supervisor occasionally to ensure the officer is making the best tape possible. Once again the review of tapes by supervisors differs from department to department. Generally most

departments have their supervisors review tapes every 30 days, but there is no general consensus on this. The Pflugerville, Texas Police Department has a supervisor review tapes bi-monthly (Pflugerville, Police Dept. 1999) while the Paris, Texas Police Department has no supervisor reviews (Paris, Tx. Police Dept. 1996). The Midland, Texas Police Department has only random supervisor reviews, as a result the officers never know when a tape may be reviewed (Midland, Tx. Police Dept. 1998). This is an area that should be dealt with in policy and officers made aware of it.

DISCUSSION OF RELEVANT ISSUES

The key issue to consider in the implementation of in-car mobile video cameras is the compelling need. Today's trials often put the police officer's actions, rather than the defendant's acts, on trial. The most frustrating outcome of an arrest for a law enforcement officer is when an offender goes free because of inadequate evidence. The success of any prosecution can depend on details (*Law and Order* 1990). The camera can work for officers if they are properly trained in mobile videotaping techniques. Training is a very important part of policy development (Kuboviak 1992).

The videotaping of officer/citizen contacts saves time and tax dollars as well as raising the efficiency of a department dealing with unfounded complaints. Generally when told the audio and video tapes were going to be reviewed to see what transpired, the complainant usually has nothing more to talk about (*Law and Order* 1990).

There are several constraints which have a negative impact on the use of the mobile video cameras. An officer who is not overly happy with the idea of having his actions recorded will generally produce poor quality videos. There will be little or no articulation on the part of the

officer. Officers who are poorly trained in the use of the mobile video camera will consistently make mistakes with the technical use of the camera equipment. Officers may turn on the video but fail to activate the external microphone, thus failing to record any conversation outside their patrol vehicle. On the other hand, an officer who isn't sure the equipment is recording may push the wrong button in an effort to record an event and in actuality he turns the unit off and as a result has no recording whatsoever.

Also a department may not be able to equip all their patrol vehicles with the cameras due to budgetary limitations, and as result the officers don't have the opportunity to use the cameras on a daily basis. This causes the officer to not be as proficient as he should be with the use of the camera. The ideal situation would be for a law enforcement agency to keep their current fleet of patrol vehicles fully equipped with video cameras.

One opportunity for law enforcement agencies utilizing the video cameras is the reduction of time spent on bogus complaints once the person filing the complaint learns there is audio and video of the alleged incident. The videotape will reduce officer time spent in court, thus reducing overtime for the department (Kuboviak 1991). Because of its versatility, video has become one of the better modern courtroom tools, and is especially valuable in Driving While Intoxicated cases (Pilant 1995). Today's headlines are filled with stories of officers being accused of sexual misconduct, an innocent bystander being gunned down by an overzealous policeman, and law enforcement officers being murdered in cold blood. **In** the majority of these cases the alleged crimes were committed after a routine traffic stop. This often left many questions unanswered. Is there a way to find an unbiased eyewitness (Shaw 1989)?

The answer used to be no, but with the introduction of the mobile video camera, we can

now say yes. Police officers now have the means and the opportunity to be able to show a jury exactly what transpired. The videotape could become the deciding factor in determining if there was probable cause for stopping the suspect; if the officer behaved in a proper manner; if the suspect provoked the situation; or if the suspect resisted arrest or attacked the officer (Shaw 1989). The cost of the equipment tends to cause some agencies to shy away from purchasing the equipment. The cost of the units range from around \$2000 per unit to as much as \$5000 per unit.

The system the Longview Police Department is interested in purchasing is manufactured by Mobile-Vision Inc. The price per unit is \$3,775 with an additional \$225 per unit for the optional solid state cooling option. The department will need 14 units for a total cost of \$52,850. The 14 solid state cooling units to house the video recorder in the trunk will cost \$3,150. We will request 100 microphones with cable and windscreens with a cost of \$2,150. Twelve additional wireless microphone transmitters will cost \$2,220 and it will cost \$3,500 to install the Mobile Vision System 7 in 14 patrol vehicles for a grand total of \$63,870. There is a 1 year parts and labor warranty on this system.

We chose a system that has the actual recording unit securely locked in an environment controlled fireproof vault located in the vehicle's trunk (Coles 1988).

CONCLUSIONS/RECOMMENDATIONS

This policy research project is presented for the purpose of providing relevant information concerning the value of in-car mobile video cameras in Longview Police Department patrol vehicles. This project provides information concerning the development of mobile video cameras, the effectiveness and validity of having in-car mobile video cameras, a review of several current law enforcement agency policies, as well as documented court cases covering

mobile video cameras. This is essential in the decision making process concerning mobile video cameras and policy development.

Police officers are under constant scrutiny and are called upon frequently to prove their actions were within the law and no one's civil or constitutional rights were violated. Officers should also know that a supervisor will be involved and has responsibilities in the review of the videotapes. All information reviewed for this project strongly suggests that in-car mobile video cameras are a necessary piece of law enforcement equipment especially in today's litigious society.

The decision to place in-car mobile video cameras in Longview Police Department patrol vehicles ultimately rests with the Longview City Council. However, it is the responsibility of the Police Department, after reviewing all applicable information, to recommend a course of action. With this in mind, it is recommended that an in-depth policy be developed and all officers complete training in the operation of the mobile video cameras before being assigned to a unit equipped with a camera. With this policy and training, Longview Police Department officers will be more confident in their contacts with the public.

BIBLIOGRAPHY

- Bangor, Me. Police Dept. Mobile Video/Audio Recording Policy. (1996).
- Bellaire, Tx. Police Dept. Vehicle Video/Audio Recording Equipment Policy. (1999).
- Brown v. State, 349 So.2d. 1196, 1197 (Fla. App. 1977).
- Coles, David L. "Safe Stops: New Mobile Surveillance System Assists Patrol Officers." Police, Vol. 12, No.9 September 1988: 28-31, 65.
- Diane Dell Davis v. State, #c14-89-00813-CR (Tex. Cr. App. 1990).
- Edwards v. State, 551 S.W. 2d. 731 (Texas 1977).
- Kuboviak, James. "Mobile Video Speaks for Itself." Law and Order, Vol. 42, No. September 1994: 77-82.
- Kuboviak, James. "Mobile Videotaping: A Look at Tomorrow's Law Enforcement Tool." Law and Order, Vol. 40, No.7 July 1992:66-71.
- Kuboviak, James. "Mobile Videotaping: A Prosecutor's Look at Tomorrow's Law Enforcement Tool." The Prosecutor, Vol. 25, No.2 Fall 1991: 13-20,22.
- Kuboviak, James. "Mobile Videotaping: A Tool for Field Training Officers." Law and Order, Vol. 42, No.3 March 1994: 47-49.
- Kuboviak, James." Mobile Videotaping: Admissibility Under Federal Rules of Evidence Combined with Fourth and Fifth Amendment Considerations." The Prosecutor, Vol.27, No.4 September/October 1993: 11-14.
- Kuboviak, James. "Mobile Videotaping: How to Win a OWI (Driving While Intoxicated) in Court." Law Enforcement Technology, Vol. 21, No.9 June 1994: 52-56.
- Midland, Tx. Police Dept. Mobile Video Recording System. (1998).
- North Little Rock, Ar. Police Dept. Mobile Video Recording Policy. (1998).
- North Richland Hills, Tx. Police Dept. Mobile Video System Policy. (1995).
- Paris, Tx. Police Dept. Mobile Video Camera Policy. (1996).
- Pennsylvania v. Muniz, 110 S. Ct. 2638 (1990).
- Pflugerville, Tx. Police Dept. Mobile Video Recording Equipment Policy. (1999).

Pilant, Lois. "Spotlight on In-Car Video Systems." Police Chief, Vol. 62, No.4 April 1995: 30-31, 33-37.

Richardson, Tx. Police Dept. In-Car Video Camera System Policy. (1997).

Shaw, Steven. "Mobile Video Gives the Real Picture." Law Enforcement Technology, Vol. 16, No.8 September 1989: 26-37.

Sherman, E. C. "Mobile Video Recording: Get the Picture." Texas Police Journal, February 1991: 7-14.

Stanley v. Wainwright, 604 F.2d. 379, 381 (5th Cir. 1979).

United States v. Cochran, 697 F.2d. 600 (5th Cir. 1983).

"Vehicle-Mounted TV: A Patrol Officer's Silent Partner." Law and Order, Vol.38, No.2 February 1990: 55-57.