

Law Enforcement:
In-Car Video Cameras

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ABSTRACT

Aside from knowing In-car video (ICV) systems exist, many are ignorant of what an ICV system actually is.

The ICV is examined through a combination of interviews, studies, manufacturer's material, newspaper articles, and department policies.

The results of the inspection will allow a department to decide on the viability of ICV for the department, maximize its effectiveness, and provide policy considerations for ICV use.

After examining ICV, one realizes ICV is a mutually beneficial tool for the law enforcement profession and the community where it is used.

In-car video systems are a relatively new addition to law enforcement. Many in the law enforcement profession are unaware of the intricacies of the in-car video system. By examining the details of in-car video system, one can make decisions concerning the implementation of an in-car video system.

In-car video (ICV) has a short history. The equipment, that comprises the ICV system, is a combination of already existing equipment. But, ICV systems are made to be more durable for law enforcement use in the field. This results in added costs, although some or all of the costs can be offset through sources outside of the police budget. With minimal training, an officer can maximize the benefits of the system, although there are still drawbacks to ICV. When implementing a new technological item, departments should develop policy for its use. The policy should be grounded in a legal base and take into consideration potential union objections.

HISTORY

In-car video (ICV) systems were a natural technological progression from the advent of the Video Cassette Recorder and the camcorder. Initially, the ICV camera was simply a handheld camcorder that the police officer in the passenger seat would hold to document pertinent information. (LEMVI, 1999) As the value of videotaped evidence became apparent, nationally recognized companies such as Kustom, Mobile Vision, and others developed complete systems that could be securely mounted within patrol cars. In 1986, Kustom was the first company to patent an ICV system. (Kustom, 1999)

EQUIPMENT

The typical ICV camera system consists of a camera mounted within the patrol car, a wireless microphone worn by the police officer, a trunk mounted recorder, and a control

mechanism used to operate the system. Now, a microphone mounted within the patrol car is also considered basic equipment. In addition, there are several accessories available to enhance the system.

CAMERA

There are differences between the brands of cameras installed within patrol cars. When examining a camera, one should consider the differences in color, resolution, lux, zoom, and internal circuitry.

First of all, one can obtain a camera that records in either black/white or color. Black and white cameras require less light at night and are cheaper, but also will not be able to distinguish between colors should the need arise and are also less desirable for viewing. (Prosecutor, 1999)

The camera should have a high resolution. Higher resolution produces a clearer image. (Atkinson, etal. 1999)

Each camera has a lux rating. Lux refers to the light sensitivity of the camera. The higher the lux rating the more light needed to produce a quality picture. Therefore, a camera with a low lux rating is better suited for darker recording situations. (Atkinson, etal. 1999)

Cameras have two types of focusing devices: permanent auto-focus that automatically focuses the shot, and momentary auto-focus that focuses for special situations when manually trying to zoom in on a distant license plate.

The camera should offer zoom capability. Most cameras offer approximately 12x zoom. This is sufficient to allow the officer to get close up shots of vehicle license plates. Higher zoom increases the camera's ability to produce clearer pictures at greater distances. (Prosecutor, 1999)

The camera's internal circuitry should be able to counteract the halo effect evident when taping artificially lighted situations as well as backlight compensation which accommodates for daytime filming when brightness may whitewash the subject. (Kustom, 1999)

By comparing the different camera features, one should be able to choose a camera that could suits the needs of the department.

RECORDER

An industrial strength recording unit that can withstand stressful patrol car conditions is recommended. Those conditions include heat, cold, high speeds, fast cornering, and occasional jolting when driven over rough terrain. In examining the different recorders, one needs to consider whether the patrol car configuration dictates a vertical mount or horizontal mount. The positioning of other equipment in the trunk may eliminate the possibility of using a vertically mounted recorder.

One feature found on ICV recorders not normally found on home VCR units is a feature, which prevents recording over previously recorded tape. Should an officer review a portion of the videotape and press the record button, the recorder will automatically forward to the previous spot where recording last stopped. This prevents tape from being recorded over and helps prevent the possibility of tampering.

The vault, which is used to house the recorder, should be sturdy enough to protect the recorder from the rigors of traveling in a patrol car. While some companies may promote bulletproof enclosures, the reality of the recorder needing to withstand that degree of impact is quite rare. It may not be worth the extra cost. Vaults typically are equipped with a heat/cool pump, which controls the internal temperature. This maintains a proper temperature for the

recorder. In addition, vaults are available with a lock so that only authorized people are able to access the videotape.

While digital technology is on the horizon, present recorders use VHS videotape. The tapes should be industrial strength, which are thicker tapes designed to be used numerous times over and stored for extended periods. The tape should have the capability to record for the duration that may be needed. (Prosecutor, 1999)

Most recorder systems have protection against recording over a previously recorded tape unless the tape has been degaussed prior to insertion into the recorder. This helps protect the integrity of the tape and provides resistance against possible tampering of potential evidence.

CONTROL PANEL

The control panel function is to operate the ICV system. The control panel needs to be situated inside the cab of the patrol car within convenient reach of the operator. The control panel has several basic buttons- Power, Stop, Record, Rewind, Playback, Zoom- which control the recorder. The control panel also provides for the programming of the menu set up (time/date, record time, ID tape counter, etc), focus, zoom, backlight, auto zoom, record overprotect, and optional radar interface.

AUDIO

Since there are only eight possible frequencies allowed by the FCC that can legally be used for the ICV wireless microphone, the wireless microphone should be capable of transmitting on two different frequencies. This gives the officer the ability to change the frequency if necessary. Since the officer may be in the area of a fast food drive up restaurant or

church that uses the same frequency, or around another officer that has the same frequency, the officer may need to change the frequency to avoid interference.

The wireless microphone wire attached between the battery case and the microphone also serves as an antenna. Therefore, to obtain maximum distance of transmissions the wire needs to be extended. One can expect to be able to transmit for a distance of approximately 1,000 feet (Kustom, 1999).

The fixed mount microphone is typically placed near the back seat of the patrol car and is able to record conversation within patrol car. The microphone, which is hard-wired directly into the recorder, is able to capture conversations between two suspects in the back seat, excited utterances made by suspects, and interviews with suspects.

MONITOR

The monitor provides the officer with the ability to observe real time activity as it is being recorded or playback previously recorded activity.

One big benefit of having a monitor is the ability to see the field of view for various camera adjustments. It also allows the officer to control the camera so that items of importance are captured and not missed. If a license plate needs to be recorded, the officer can verify that the camera has been zoomed in to the proper level to record the letters/numerals of the license plate.

The monitor also allows the officer to review activity that has already been taped. This ability is beneficial for training of new officers or the seasoned officer who is working on documenting an incident within a report.

Monitors are available in color or black/white. Monitors offer passive matrix (smaller viewing area) or active matrix (larger viewing area) screens. All monitors are flat screens, which take up less space than conventional monitors.

OPTIONAL EQUIPMENT

Several companies offer an optional GPS (Global Positioning System) interface. The system documents the longitude and latitude coordinates of the patrol car and records the information on the videotape. This is beneficial should a suspect throw something out of a vehicle while fleeing. It allows the officer to review the tape to locate the exact location that the item was discarded.

Another option is an interface with the patrol car's radar unit. The videotape records the radar display information consisting of the patrol car speed and the target speed. This optional feature provides documented evidence against traffic speed violators. (Harrison, 2000)

Some companies offer a removable camera that can be used at scenes. This allows the officer the mobility to document away from the patrol car. The biggest downfall of this optional system is that the recorder and tape are situated within the camera. While the benefit is a more mobile system, the downfalls include a lack of tape integrity in that the tape can easily be removed, and increased environmental stresses to the tape, since the camcorder is not protected within a vault. Sun exposure is highly detrimental to tapes. (Prosecutor, 1999)

Semco (an ICV distributor) sells a "body camera" that works in conjunction with ICV. The officer wears a miniature-size surveillance camera. A video signal is sent from the officer to the recorder allowing the ICV recorder to record practically everything the officer is seeing after the officer leaves the patrol car. (Semco, 2000)

MAINTENANCE

A routine maintenance schedule will prolong the life of the equipment and will maximize the quality of the recording. The recorder head should be cleaned to maintain the quality of the videotapes. The camera lens and windshield should be cleaned to provide a clearer picture. All videotapes should be fast forwarded and rewound once a year to assure the tape flows smoothly through the cassette. And, the wireless transmitter batteries should be checked at the start of each shift to assure optimum transmitting ability.

When purchasing an ICV system, there are several considerations to keep in mind. References from other users should be obtained as to the positives and negatives of each system under consideration. The system components should be evaluated as to compatibility with current patrol car configuration. The security or integrity of the system should be checked to assure that the system would provide the desired results. One should check to see what difficulties would be presented should the system need to be repaired or serviced under a warranty. The department, if possible, should test the system. One brand may be suited for those working a rural jurisdiction, but will not be adequate for a jurisdiction that is an urban industrialized area with bright lights at night.

COSTS

The average ICV system costs approximately \$4,500, but with accessories the cost rises to approximately \$5,500. (Kustom, 2000).

Besides the costs of the equipment, there are additional costs associated with ICV that a department needs to consider. Many departments fail to properly calculate the cost of all the tapes, maintenance of the system, and the training to properly and effectively use the system.

The variables used to calculate the cost of the tapes include number of ICV in use, tape storage duration, number of situations requiring removal of the tape from rotation, and life span of any given tape.

The cost of maintenance can only be estimated. The Michigan State Police estimates maintenance at \$300 per year per unit. Factors used to estimate maintenance are equipment history, warranty period, and maintenance schedule. (Faccio, 2000)

According to Faccio (2000), too many departments believe that once they purchase and install the system, the officer will automatically know the proper way to use all the buttons, properly maneuver the patrol car for optimum performance, and will automatically know the tricks of the trade to achieve optimum performance. Departments are willing to spend \$4,500 to install a system but won't spend \$100 to train an officer to efficiently and effectively use the system.

Too often, one assumes that the cost of the equipment is the lone cost. But by factoring in the aforementioned, one can better approximate what the true costs will be.

FUNDING

Should a department want to obtain ICV, there are several funding methods available to purchase and operate an ICV system. Those methods include direct pay, grants, and donations,

Obviously, the simplest method is the most expensive for a police department. This method is budgeting for the purchase and operation from within the police department's own budget. Through this method all costs are borne by the purchasing agency. This method is quick

and easy. There is no waiting on replies to requests for financial assistance and sometimes cumbersome paperwork is not needed. The drawback is that those funds cannot be used for other police related activity.

Another method of financing is through a grant. Depending on the grant, all or some of the purchase and operational costs could be obtained through the grant. While the upside of this is that the police budget can be allocated to other expenses, the downsides of a grant must be considered before relying on a grant to fund the acquisition and/or operation of the in car video camera. The downsides are hassle of locating a grant, writing the grant so that it is germane to the grant, waiting on the grant, and gathering additional data regarding the effectiveness of the ICV.

In an effort to boost law enforcements effectiveness in combating drunk driving, many states have grants directly available to purchase ICV. For example, Nebraska recently announced grants to Nebraska law enforcement agencies for purchasing 69 ICV systems. This is the seventh consecutive year the state of Nebraska has provided grants for acquiring ICVs. (Office, 2000)

Another source is through local civic organizations. Many civic organizations are willing to donate to worthwhile causes. Many civic organizations, such as the Lions, Kiwanis, Rotary, etc., are willing to fund causes that will have a positive impact for the community. Financial assistance typically requires a formal request and a presentation to the organization or governing board as to the need and derived benefit to the community. One organization in particular, Mothers Against Drunk Driving (MADD), is known to donate funds and equipment to police departments to help combat drunk driving. Evidence has shown that ICV systems help combat drunk driving. MADD has donated complete ICV systems to police departments. (Hampton, Unknown Date)

USE

The ICV systems are designed by the manufacturers to be easy to operate. For maximum benefit the system should be checked at the start of each shift. The effectiveness of the ICV system can be improved through training for ICV use. To maximize the use and life expectancy of the ICV system, routine maintenance according to manufacturer's recommendations should be performed.

Basic operation of the system is simple. An officer can record one of four ways- 1) press the record button on the control panel, 2) turn on the overhead lights, 3) turn on the siren, or 4) use the remote switch on the wireless microphone. Any of these methods will start the system into a record mode. The systems are designed so that the officer can only stop the recording with the stop button on the control panel. This prevents the officer from inadvertently or intentionally stopping the tape while out of the patrol car.

Prior to the start of each shift, the officer should park the patrol car approximately two-car lengths behind any vehicle in the lot. The officer needs to assure the camera is set to record within the "arena of performance" (LEMVI, p.10, 1999)- the area outside the patrol car that the camera records and where an officer gathers information, whether for a violation or traffic crash investigation. To do this, the officer zooms in on the license plate to focus, telephoto back until the hood of patrol unit comes into focus, take the camera off auto-focus. This will set up the camera so that as the officer gets out of the patrol car on a traffic stop, one touch of the auto zoom button will zoom in on the suspect's license plate and then zoom back out to record the arena of performance. (LEMVI, 1999)

When following a possible or suspected drunk driver, an officer should only follow that driver no further than they normally would if the officer did not have the ICV system. The same

concerns of the drunk driver hitting someone or something exist whether the officer is using an ICV or not.

Generally, the officer should activate the system as early as possible in order to document as much as possible. This allows the trier of fact (jury or judge) to see the facts of the case.

The officer should manually turn on the video camera prior to stopping a suspected drunk. This allows the potential jury the ability to see first hand the suspect's driving. The officer should provide a quick narrative of current and previous observations when following a possible drunk driver. Besides the suspected drunk's driving pattern, the narrative should include routing and changes in driving patterns upon the suspect's observation of police. Upon activation of the patrol car emergency lights, the officer should articulate the amount of time for the target vehicle to respond, location of stop, and officer safety factors such as the license plate number, description of vehicle stopped, and occupant information.

When conducting a stop on any vehicle, the patrol car should be situated in a position that will allow videotaping of the contact, but under no circumstance should officer safety be compromised for the sake of videotaping. Officer safety is still paramount.

On traffic stops, it is recommended that the patrol car be positioned two car lengths behind the suspect's vehicle. This position allows the officer quick access to the patrol car during a crisis situation, yet enough distance to safely interact between the two vehicles. The camera will record approximately six feet on either side of the suspect's vehicle at this distance. At two-car lengths it also allows the officer and violator to move to the shoulder of the road and still be recorded. Even if the patrol car is offset at an angle to the perpetrator's vehicle, the camera is easily turned at the swivel-mounting bracket prior to exiting the patrol car to allow recording within the arena of performance. (LEMVI, 1999)

The wireless microphone should be positioned at belt level. Most citizen contacts are during traffic stops where the driver is seated in his/her vehicle. The wireless microphone is then situated in close proximity to the driver's mouth. (Faccio, 2000)

Upon contact with a suspected intoxicated driver and occupants, the officer should articulate via the wireless microphone any sensory observations the officer may have such as smell of alcohol or marijuana, blood shot eyes, slurring of speech, brown paper bag containing bottle stuck between seats, difficulty of driver to locate license, driver's name, etc.

When the officer gets back to the patrol car, the officer may use the camera to take a "photograph" of the driver's license. This helps document the traffic stop for future videotape use.

Should an officer locate any items of contraband during a traffic stop, those items should be placed on the patrol car hood, if the circumstances permit, so the camera can document the items.

To help a suspect seated in the back seat of a patrol car believe that the video/audio is no longer recording, the officer should pre-cover any LED lights that light up when recording. When the suspect is situated in the car, the officer should turn off the monitor. This gives the appearance that the recording system is turned off. Suspects believing that they are no longer being recorded may be more likely to implicate themselves thinking that a recording is not being made. An officer may gain additional probable cause by rewinding the tape and listening to defendant in the absence of the officer.

Regardless of whether the defendants are audio recorded the officer should leave the video activated through transportation and booking process. A lot of physical abuse complaints against officers originate with the suspect intentionally smashing his head against the patrol

screen prior to getting to booking and having his booking photograph taken. By the officer turning the camera towards the suspect seated in the rear of the patrol car, the camera is able to document against allegations of abuse.

Videotape of situations known or believed to be needed later should be logged into evidence as per department policy.

Prior to testifying in court, the officer should watch the entire videotape. This will assure the videotape is the actual videotape of the incident, refresh the officer's memory, and assure that there is nothing unusual on the videotape.

During nighttime use of the ICV system, light emitted from the patrol car could effect the taping. The minimal lighting needed in dark situations is the low beam headlights of the patrol car. Better lighting (and recording) is obtained by using the overhead take down lights coupled with the low beam headlights. A spotlight with a flood lamp bulb used in conjunction of the low beam headlights will also allow proper disbursement of light for recording. Improper use of lighting can be detrimental to the quality of the videotape. Using the patrol car's high beam headlights will create a washout effect. Misdirected spotlights or flashlights create hot spots on the videotape. Wig-wag headlights or strobe lights create the appearance of swaying on the videotape.

BENEFITS

ICV systems enhance criminal prosecution, limit police liability, reduce personnel complaints, train officers, and reassures citizens that proper procedure is followed by the police officer.

ICV enhances criminal prosecution by providing the trier of fact, either judge or jury, with the ability to thoroughly examine arguments presented by the prosecution and defense. On

3/7/00 police tried stopping a vehicle driven by Mark Koernke, the self-proclaimed leader of the Michigan Militia, as a possible suspect in a bank robbery. Instead of pulling over, Koernke fled from police. A 40-mile long chase ensued. When a State Trooper who had an ICV system joined the chase, a forty-five minute portion of the chase was captured. Koernke was eventually captured and arrested. As a result of the chase, Koernke was charged with Fleeing and Eluding, Resisting and Obstructing, and two counts of felonious assault for Koernke allegedly aiming his car at two different police officers during the chase. Koernke's attorney argued during the preliminary hearing that Koernke did not intentionally drive at the deputy's cars' but rather was just trying to avoid being chased by the police. The judge presiding over the preliminary hearing relied on the videotape from the State Trooper's patrol car to conclude that there was probable cause that Koernke did in fact intentionally tried to ram the police officer's patrol cars. The judge decided after seeing the videotape that Koernke would stand trial on all the aforementioned charges. (Oppat, 2000)

ICV reduces police liability through the improved investigation of citizen complaints. Take for example the drunk driving arrest of Gilbert Adame near Immokolee, Florida. On January 1, 2000, Adame was driving himself and a friend when they were stopped by a police officer. Unbeknownst to Adame and his friend, the ICV system was operating during the traffic stop. During the traffic stop, Adame was arrested for drunk driving. After being arrested, Adame, who used to work as a corrections officer at the same department as the arresting officer, went to internal affairs to file a complaint against the deputy who arrested him. The complaint alleged that the officer arrested the wrong person because the 'actual' driver ran from the traffic stop. Adame provided internal affairs with an affidavit from the supposed driver, who claimed to have run because of a possible warrant out for his arrest. Adame further informed investigators that

the officer physically assaulted Adame and the remaining passenger. The 'remaining' passenger also provided internal affairs with a sworn statement as to this. The passenger also claimed that the officer ethnically intimidated him. Adame also provided internal affairs investigators with four more affidavits from people who claimed to have been riding in a car traveling the same road after Adame had been stopped. These affidavits also substantiated Adame's claim of being physically assaulted by the officer. After internal affairs investigators obtained the videotape of the traffic stop, internal affairs investigators informed Adame that they had a videotape of the traffic stop. Adame then recanted his allegations. Adame claimed to have crafted his story because of what Adame considered past injustices against him when he was employed at the agency. (Osebold, 2000) Had the videotape not have been made, the twelve year police veteran would most likely be facing internal discipline and criminal charges, and the department would have been facing civil liability with what seemed like insurmountable evidence as presented by Adame. Instead Adame now faces additional charges for his false allegations as disproved by the ICV system. (Osebold, 2000)

The value in the investigation of citizen complaints alone justifies the acquisition of ICV systems. All police departments receive complaints against their police officers. Some complaints are justified, others are not. Take for example an incident that occurred with the Eastern Michigan University Police Department. A person contacted John McAuliffe, Director of the Eastern Michigan University Police Department filing a formal citizen complaint against an officer that "ripped the license and registration from his hand, acted rudely and verbally abused him." (Aisner, 2000, p. A1) The officer had the contact with the citizen on videotape. After the citizen viewed the videotaped contact with McAuliffe, the person just left. No additional investigation was needed. The officer did not have to be interviewed in the presence of

a union steward. Radio tapes did not have to be obtained. The citizen complaint was easily ruled unfounded without having to go through the typical investigative process. (Aisner, 2000) The ICV saved investigative man-hours as well as eliminated the undue stress on the officer for being investigated on a citizen complaint.

ICV is beneficial for training purposes, especially when probationary officers are in the Field Training Officer (FTO) Program. ICV and FTO go hand in hand. This is the time when the employee should be taught the intricacies of the system so that once the officer is on their own, the ICV system is a natural part of the job. The training officer can also use the video to assist in training the new officer. Video of the recruit properly doing field activity can reiterate the proper method in accomplishing various tasks. The ICV system supports and documents new officer's progress. The ICV allows the trainer to reflect prior to documenting the evaluation on paper. The ICV also allows for video documentation of the new officer's ability or progress. It is suggested to record all contacts, then if mistakes were made, to immediately review the videotape to address the mistakes. In addition, all tapes showing a gross deviation from department policy or violation of law should be saved, as well as any tapes of evidentiary value. (LEMVI, 1999) The goal of the Field Training Officer program is to place a productive officer on the street without direct supervision. The ICV system not only helps reiterate positive actions, but also documents activity of those officers who would not make a good police officer. The ICV provides the necessary documentation to justify releasing a probationary employee.

The ICV system also provides a sense of security to the public. The ICV system provides reassurances that citizens will be treated properly.

A police car video camera captured Scott (Louisiana) Police Chief Jerry Carpenter putting something into the trunk of a car that had earlier been searched for drugs and turned up

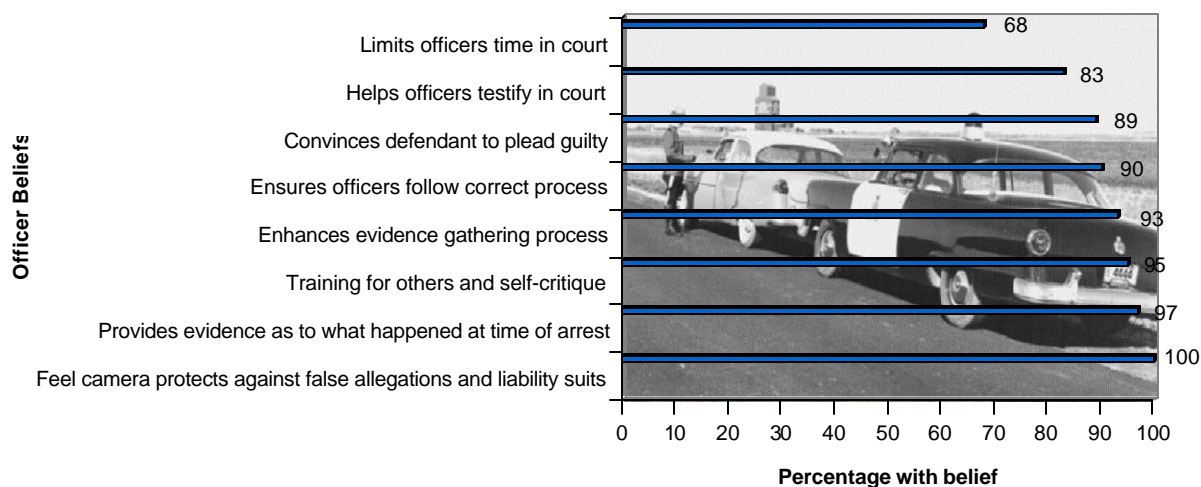
clean. That same trunk later yielded a bag of white powder, while the inside of the car later yielded a bag of marijuana. The police chief then attempted to have the car and the driver's money forfeited. Most of the ICV tape was somehow later erased and the white powder disappeared. Two people who observed the videotape were able to testify about what they saw on the videotape prior to its erasure. The police chief was subsequently charged with four counts of malfeasance in office and one count of injuring a public record. (Simoneaux, 1998)

The issue of racial profiling has caused many departments to gather data for a quantitative analysis of contacts with minorities. (Harris, 1999) One of the biggest benefits of the ICV is in deciphering qualitative evidence. The ICV is able to provide a qualitative analysis of not just how many minorities are contacted but also how the minority, as well as others, is treated once they are contacted. The New Jersey State Police have placed ICV in 80% of their patrol vehicles. This has helped disprove accusations that motorists were being mistreated. (Associated Press, 2000)

The following chart, provided by the National Highway Traffic Safety Administration, is the result of officers already using ICV.

CHART

**ICV
Officer Perceived Benefits**



**CHART 1
SOURCE: NHTSA**

There are numerous benefits to an ICV system-evidentiary value, reduced police liability, limiting of personnel complaints, officer training, and citizen reassurance. But there are also drawbacks.

DRAWBACKS

One of the biggest drawbacks voiced about the ICV is the officer’s initial perception about the system. Most officers’ initial perception is that ‘Big Brother’ is watching. Officers initially feel that their every move will be scrutinized and subjected to discipline. Instead of

viewing the system as an ally, officers see the system as being a foe. With most officers, this attitude changes after using the system. (Payne, 2000)

Although the ‘bigger brother’ fear is the biggest drawback, system users have expressed other concerns. According to NHTSA, the biggest concern by users is that some drunk driving suspects do not appear impaired. The ICV does not show the person acting intoxicated. The following chart outlines concerns by users of ICV.

CHART

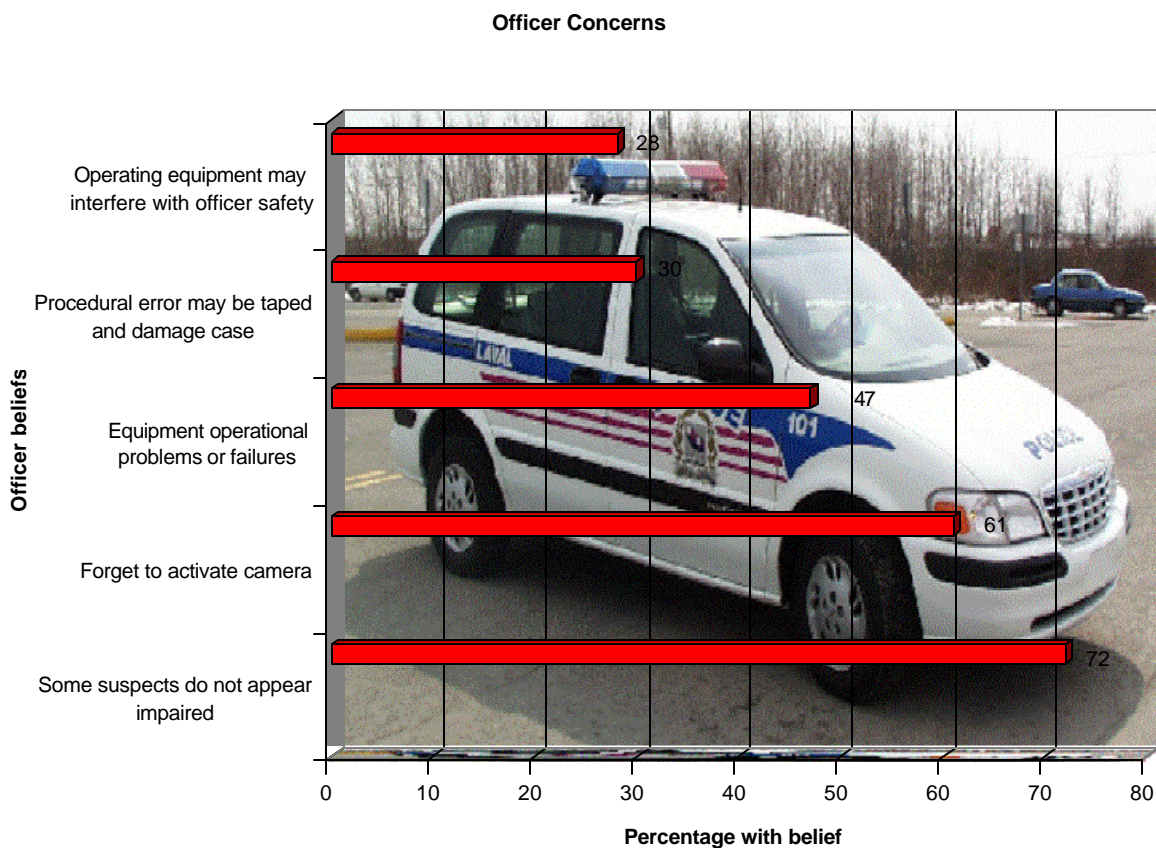


CHART 2
SOURCE: NHTSA

The majority of the drawbacks deal with an officer’s perception. While policy may not be able to eliminate officer’s concerns, policy may be able to minimize those concerns.

POLICY CONSIDERATIONS

Upon electing to install ICV in a department's patrol cars, the issue of policy governing the use of the ICV must be addressed. Obviously, the policy must be consistent with the goals and mission of the department. By examining different department's policies, one is able to take into consideration a multitude of factors and decide on what items should be incorporated into the department's policy manual.

For example, the Michigan State Police internal use policy prohibits random spot checks of Troopers via the ICV, unless a complaint has been generated. The Michigan State Police policy does allow a Field Training Officer the use of the ICV to critique and train the new probationary officer. The Michigan State Police are required to activate the in car video camera for all citizen contacts and must retain tapes for a period of 30 days unless a tape has been labeled as evidence and logged in as such. (Faccio, 2000)

An examination of the Saginaw Police Departments Policy and Procedure establishes guidelines for the use of an ICV system. Saginaw requires the unit to be warmed up for 5 minutes before the insertion of videotape otherwise it could damage the system. Saginaw requires the ICV be activated for visual and audio recordings during all citizen contacts, testing of batteries prior to use, tapes rotated out for a 30-day period, chases and drunk driving situations stored as evidence, and the recorder cleaned by the first officer using patrol car at start of each month. (Saginaw, 2000)

While numerous policy issues exist, one of the most difficult to address is how long to retain a videotape. Often times the value of the videotape is not realized until well after the fact. This then suggests that videotapes should be held for an extended period of time, but then this

creates additional problems. The longer tapes are held means increased storage needs, increased number of tapes needed for patrol, and increased accounting for tapes. (Sharp, 2000)

On 10/1/92, the International Association of Chiefs of Police issued a model policy for ICV. But, the IACP also provided a caveat, "...law enforcement administrators should be cautioned that no 'model' policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of various agency resource capabilities, among other factors." (IACP, p.2, 1992)

A department's policy should reflect the goals and objectives of the department. The policy should analyze other existing policies to assure the department's policy is inclusive of all considerations and will be able to withstand legal and union scrutiny.

LEGAL CONSIDERATIONS

The use of the ICV has been upheld in numerous court cases. The admissibility of videotape evidence into a court proceeding, expectation of privacy, surreptitious recordings, and possible violations of fifth and sixth Amendment rights by the use of video during sobriety tests have been addressed through the court.

The admissibility of videotape evidence was outlined in a seven-step test in United States v. Biggins, 551 F.2d 64 (5th Cir. 1977). The court decided videotape was allowed in court if the following criteria could be met:

1. The recording device is capable of recording the conversation (or visual picture) being offered into evidence.
2. The operator of the device was competent.
3. The recording is authentic and correct.
4. Charges, additions, or deletions have not been made in the recording.
5. Recording has been preserved in a manner that has been shown to the court.
6. The speakers are identified.
7. The conversations were made voluntarily and in good faith without any kind of inducement.

(LEMVI, 1999)

The question whether two suspects (or others) seated in a patrol car have a reasonable expectation of privacy was answered in Katz v. United States, 389 U.S. 347, 360 (1967). This answer requires a two-step analysis.

1. The person exhibited an actual expectation of privacy (this is subjective).
2. The expectation is one that society is prepared to recognize as “reasonable” (this is objective)

California and Florida courts have already decided that a person should not expect any right to privacy while in a patrol car. (LEMVI, 1999)

In State of Michigan v. Marland, State of Michigan v. Lange, (135 Mich. App. 297, 355 N.W.2d 378, 1984) the issue of surreptitious recording was addressed. This case dealt with a surreptitious tape recording of a defendant’s conversation while seated in police car. The court ruled that the tape was admissible. This case involved two people confronted by a police officer. Because of the suspicious circumstances surrounding the contact with these two individuals,

although probable cause did not exist for an arrest, both subjects were placed into the back seat of a patrol car. The officer placed a tape recorder on the front seat while the officer left the patrol car. During the officer's absence, the two subjects conversation implicated one of them in a crime that the officer discovered. The court ruled that the taped conversation was admissible. The importance of this case goes to the use of the microphone mounted in the patrol car.

Another case involving the admissibility of videotape evidence was the case of State of Michigan v. Burhans, 166 Mich. App. 758, 1988. In this case, the defendant was arrested for drunk driving. The defendant appealed her conviction to the Court of Appeal by claiming that the showing of the videotape to jurors violated her 5th Amendment right against self-incrimination and 6th Amendment right to counsel. Court held that counsel was not required during videotaping of sobriety test and the videotaping was non-testimonial. Therefore, Defendants 5th and 6th Amendment rights were not violated. "... (T)he taking of a sobriety test is not a violation of defendant's right against self-incrimination, nor does videotaping defendant's sobriety tests transform the objective results of those tests into testimonial or communicative evidence." The court further stated, "...videotaping serves to fulfill the role an attorney would perform of providing an independent corroboration of how the sobriety tests were conducted."

In Michigan, the use of videotape as evidence is okay as long as the proper foundation is laid. Michigan requires the same foundations to be allowed into a court proceeding as is necessary for motion pictures and sound recordings. State of Michigan v. Heading, 39 Mich. App. 126, 1972

The court has laid a solid foundation for the use of the ICV system within court proceedings. The court allows great latitude in the use of ICV systems for police purposes.

UNION PERSPECTIVE

The Police Officer Association of Michigan (POAM), which represents approximately 11,000 employees out of approximately 18,000 employees, is not against ICV. The biggest concern is the use of the tape. The POAM does not want tapes to be randomly or by any other method reviewed to scrutinize an officer. Overall, the POAM feels that it is advantageous to have ICV. The ICV protects the good cop. In Frank Guido's (legal council for the POAM) experience, the ICV alone has been able to vindicate the officer in excess of 75% of the complaints generated. (Guido, 2000)

The union will not request a department not install ICV systems. Management has the right to install ICV and govern its use through Policy and Procedure. Management does not have to negotiate implementing ICV with the officers or union through the Collective Bargaining Agreement. While management has the right to implement ICV, the union rights include the right to negotiate wages, hours, and working conditions. Should the union have an issue with the way management is *using* the ICV, the union can negotiate the way it is being used. The POAM believes the ICV is mutually beneficial to the employer and employee as long the video is not abused by the employer. (Guido, 2000)

During ICV's short history, ICVs have proven to be a valuable asset to law enforcement. Although the upfront costs for the system may seem expensive, the reduced costs in investigating complaints, enhancing criminal prosecutions, and reassuring citizens, offset that initial investment, which can be obtained through grants. The benefits for the system far outweigh the drawbacks. Departments cognizant of equipment maintenance, goals of the department, apprehensiveness of those using the system, and legal cases, can develop policies for successful implementation of the ICV system.

By police departments making an informed decision about obtaining ICV, properly training the officers to use the equipment, and developing policy that minimizes officers fears, officers can and will use ICV to reassure that officers and citizens are treated according to the law in a fair manner.

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