

INTRADEPARTMENTAL CORRESPONDENCE

July 20, 2021

BPC#21-131

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TO: The Honorable Board of Police Commissioners
FROM: Inspector General, Police Commission
SUBJECT: REVIEW OF BODY WORN VIDEO AND DIGITAL IN-CAR VIDEO POLICY COMPLIANCE DURING CATEGORICAL USE OF FORCE INCIDENTS

RECOMMENDED ACTION

REVIEW and APPROVE the Office of the Inspector General's Report on Los Angeles Police Department officers' compliance with Body Worn Video and Digital In-Car Video policies during categorical use of force incidents.

DISCUSSION

At the request of the Board of Los Angeles Police Commissioners (BOPC), the Office of the Inspector General (OIG) completed a review of officers' use of Body Worn Video (BWV) and Digital In-Car Video (DICV) to determine compliance with applicable policy during categorical use of force (CUOF) incidents involving the Los Angeles Police Department (LAPD or Department). Department-generated digital recordings are an important source of evidence in the evaluation of officers' performance during encounters with members of the public and in the assessment of the actions taken by the involved subject(s).

The Department began to use DICV in 2010 and BWV in 2015. In 2018, the Department began publicly releasing DICV and BWV recordings that captured categorical uses of force, pursuant to a new policy adopted that year. This review examines the use of DICV and BWV by officers who were substantially involved in all categorical use of force incidents that were adjudicated by the BOPC during a one-year period ending June 8, 2021.

I am available to provide any further information the Commission may require.



MARK P. SMITH
Inspector General
Police Commission

Attachment

LOS ANGELES POLICE COMMISSION

**REVIEW OF BODY WORN VIDEO AND
DIGITAL IN-CAR VIDEO POLICY
COMPLIANCE DURING CATEGORICAL
USE OF FORCE INCIDENTS**



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

MARK P. SMITH

Inspector General

July 20, 2021

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REVIEW OF BODY WORN VIDEO AND DIGITAL IN-CAR VIDEO POLICY COMPLIANCE DURING CATEGORICAL USE OF FORCE INCIDENTS

A. Introduction

At the request of the Board of Los Angeles Police Commissioners (BOPC), the Office of the Inspector General (OIG) completed a review of officers' use of Body Worn Video (BWV) and Digital In-Car Video (DICV) to determine compliance with applicable policy during categorical use of force (CUOF) incidents involving the Los Angeles Police Department (LAPD or Department).¹ Department-generated digital recordings are an important source of evidence in the evaluation of officers' performance during encounters with members of the public and in the assessment of the actions taken by the involved subject(s).

The Department began to use DICV in 2010 and BWV in 2015. In 2018, the Department began publicly releasing DICV and BWV recordings that captured categorical uses of force, pursuant to a new policy adopted that year. This review examines the use of DICV and BWV by officers who were substantially involved in all categorical use of force incidents that were adjudicated by the BOPC during a one-year period ending June 8, 2021.²

B. Department Policies

The Department has several documented policies and procedures for the use, access, evaluation, and public release of BWV and DICV recordings. This review focuses on the required use, activation, and de-activation of BWV and DICV devices.

1. Body Worn Video Policies

Implementation of the Department's BWV program commenced in August 2015 and, by September 2018, all uniformed personnel assigned to field duties had been equipped with a BWV device. In anticipation of the Department-wide BWV program, the BOPC approved procedures for the use and deployment of BWV devices in April 2015.³ The policy states that officers shall activate their BWV device prior to initiating any investigation or enforcement activity involving a member of the public. The policy lists the occasions during which officers shall activate their BWV device, including traffic and pedestrian stops, calls for service, and Code-3 responses. Each BWV device worn by an officer has a powered-on and powered-off setting and can only be

¹ A "CUOF" is defined by Department policy as:

- An incident involving the use of deadly force (e.g., discharge of a firearm) by a Department employee;
- All uses of a carotid restraint or choke hold; [while not authorized by the Department, such uses of force would be subject to a review consistent with that of a CUOF]
- All deaths while the arrestee or detainee is in the custodial care of the Department;
- A use of force incident resulting in death;
- A use of force incident resulting in an injury requiring hospitalization;
- All intentional head strikes with an impact weapon or device (e.g., baton, flashlight) and all unintentional (inadvertent or accidental) head strikes that result in serious bodily injury, hospitalization or death; and,
- Officer-involved animal shootings and non-tactical unintentional discharges.

² "Substantially involved," in this context, is defined as an employee who applies force or who had a significant tactical or decision-making role in the incident at issue.

³ "Body Worn Video Procedures – Established", Office of the Chief of Police, Special Order No. 12, April 28, 2015.

activated to initiate a recording from the powered-on setting. When powered-on, the BWV device has the capability to capture a pre-activation two-minute buffer video to assist in recording those situations that involve a sudden encounter with a member of the public.⁴ However, if the device had been powered-off within the two-minute period prior to its activation, then it would not capture the full pre-activation two-minute buffer video. In December 2018, the Department issued a Notice which outlined the locations where, and the circumstances when, officers must have their BWV device powered on, as well as those instances when the device is authorized to be powered off.⁵

2. Digital In-Car Video Policies

In October 2009, the BOPC approved the Department's DICV system pilot program and corresponding policy.⁶ The policy outlines the activities that require DICV system activation, exceptions to required activation, and rules for deactivation. As stated in the policy, personnel shall activate the DICV system during vehicle and pedestrian stops, Code-3 responses, pursuits, and during suspect transports. Between 2010 and 2018, the Department expanded the DICV system throughout all Patrol Divisions and equipped those divisions' marked police vehicles with recording devices. Police vehicles in Metropolitan Division are not DICV equipped.

The DICV system is activated to start recording automatically when the police vehicle's emergency light bar has been activated for a minimum duration of eight seconds; the system can also be activated to record manually. Driver and passenger officers each have portable microphones synced to the DICV system, which are also automatically activated when a recording begins. Upon activation, the DICV system captures a one-minute buffer video, without audio, prior to the moment of activation. As with BWV, the purpose of the buffer is to capture video of incidents that occur suddenly. With respect to deactivation of the DICV system, this must be done manually.

The DICV system includes both a forward-facing camera as well as a rear-facing one in each police vehicle, with the latter positioned to cover the rear passenger seating area of the vehicle. The rear camera must be activated to record manually. In December 2014, the Department issued a Notice to remind staff to manually activate their DICV device when responding to a Code-3 call for service in those instance when they have used their discretion not to activate their vehicle's emergency equipment for tactical reasons.⁷ In September 2016, the Department issued a Notice to remind officers to manually activate their DICV device when conducting a pedestrian stop and, if unable to do so due to exigent circumstances, to activate it whenever it became safe to do so.⁸

⁴ The 2-minute buffer video does not include any audio recording.

⁵ "Powering Off Body-Worn Camera Devices While in Department Facilities", Office of Constitutional Policing and Policy Notice, December 20, 2018.

⁶ "Digital In-Car Video System Use and Deployment – Pilot Program", Special Order No. 45, October 20, 2009.

⁷ "Requirement to Activate the Digital In-Car System", Police Sciences and Training Bureau Notice, December 14, 2015.

⁸ "Digital In-Car Video System Activation Procedures of Pedestrian Stops – Reminder", Office of the Chief of Police Notice, September 21, 2016.

C. Office of the Inspector General Review

To complete this review, the OIG selected a 12-month test period ending in June 2021 and identified all categorical uses of force adjudicated by the BOPC during this time frame. The incidents adjudicated between these dates occurred between June 2019 and July 2020. Categorical uses of force are investigated by the Department's Force Investigation Division (FID), with oversight by the OIG. The OIG Use of Force Section reviews each completed FID report as well as the associated Chief's Report to the BOPC, which contains the Chief's analysis and recommended findings for each incident. Based on a review of those two reports and all the underlying evidence, the OIG then prepares its own analysis and recommended findings to the BOPC to assist with its adjudication of the case. Since June 2020, pursuant to the Commission's direction, both the OIG's Report and the Chief's Report on each incident have included a record of BWV/DICV compliance by all substantially involved officers.

For this review, the OIG identified a total of 53 categorical uses of force during the test period which included: 33 officer-involved shootings, 9 unintentional discharges of an officer's firearm, 6 uses of force resulting in an injury requiring the subject's hospitalization, 2 head-strikes with an impact weapon, 1 in-custody death, 1 use of deadly force, and 1 carotid restraint control hold.

1. Body Worn Video Compliance

Among the 53 CUOF cases adjudicated within the test period, 262 personnel in total were identified as having been substantially involved. Of the 262 employees, the OIG found that 218 were required by policy to activate their BWV device during the incident in which they were involved. Of the remaining 44 employees, 32 were not BWV-equipped due to their assignment, eight were not required to activate their device due to the nature of their involvement in the CUOF incident, and four were off-duty (and thus were not BWV-equipped at the time of the incident).

Of the 218 employees for whom BWV activation was required, 210 (96.3%) activated their BWV device at some point during the categorical use of force. The OIG found that eight officers (3.7%) failed to activate their BWV device at all during the incidents in which they were involved. In seven of those cases, the failure to activate was in conflict with Department policy; in the eighth case, the involved officer's BWV device accidentally dislodged from their uniform as they were exiting the police vehicle during a sudden encounter. This officer's failure to activate the BWV was not considered a violation of policy.

a. Delayed Activations

Of the 210 employees who activated their BWV device at some point during the 53 categorical use of force incidents, the OIG found that 164 activated their device on time while 46 had delayed activations. Of the 46 employees who activated their BWV device with a delay, five were involved in sudden encounters with suspects and activated their device as soon as it was safe and practical to do so; these five employees were therefore in compliance with Department policy. The remaining 41 delayed activations (18.8% of all employees for whom activation was required) were not in compliance with Department policy.

Therefore, in terms of timely activations amongst all 218 employees for whom BWV activation was required, the OIG found the overall rate of compliance with the Department's BWV policy to be 78% (164 on-time activations, five justified late activations, and one justified non-activation, for a total of 170 employees). The overall rate of non-compliance was 22% (7 non-activations and 41 delayed activations, for a total of 48 employees).

b. Pre-Activation Buffer

When the Department initially implemented the use of BWV, the cameras worn by officers were set to capture a 30-second pre-activation buffer video (without any sound). In other words, upon an officer's activation of the BWV device, the recording that was captured included video of whatever activity took place in view of the BWV camera for the 30 seconds immediately preceding the moment of activation. On November 8, 2017, the set duration of the buffer video was increased from 30 seconds to two minutes. As previously mentioned, the full duration of the buffer video is only captured by the BWV device if it has been in the powered-on setting for that two-minute period of time prior to the moment of activation by an officer. If the device is powered on and then activated by an officer less than two minutes later, a shorter buffer video will result (the duration of buffer video will equal the amount of time between the powering on of the device and the subsequent activation of the device by the officer). A reduced buffer video will also occur upon an officer's activation of the BWV device if the previous recording captured by the device ended less than two minutes prior to that activation. It is noted that the BWV device cannot be activated to record from the powered-off setting.

The Department issued a Notice, dated December 20, 2018, which outlined the locations where, and the circumstances when, an officer must have the BWV device powered on, as well as when the device is authorized to be powered off.⁹ According to the Notice, the BWV device must be in the powered-on setting while the officer wearing it is in a Department facility and likely to become involved in an enforcement or investigation activity involving a member of the public, and at all times while deployed to the field. However, the BWV device may be in the powered-off setting while the officer is in Department facilities and not engaged in an enforcement or investigative activity with a member of the public. Additionally, the BWV device must be powered off while the officer is in Department roll call rooms, locker rooms, or restrooms.

The OIG's review of 53 CUOF cases found that 159 of 210 (76%) BWV recordings initiated by substantially involved officers included the full 2-minute buffer video while the remaining 51 of 210 (24%) recordings had something less than a 2-minute buffer. The OIG assessed the activities that occurred prior to each incidence of a reduced buffer in order to determine compliance with the Department's policy to maintain the BWV device in the powered-on setting. Of the 51 recordings with a reduced buffer video, the OIG determined that in 50 cases the officers initially had their device in the powered-off setting. This meant that the officers had to first power on their device and then activate it in order to initiate a recording. In the last remaining case, the OIG

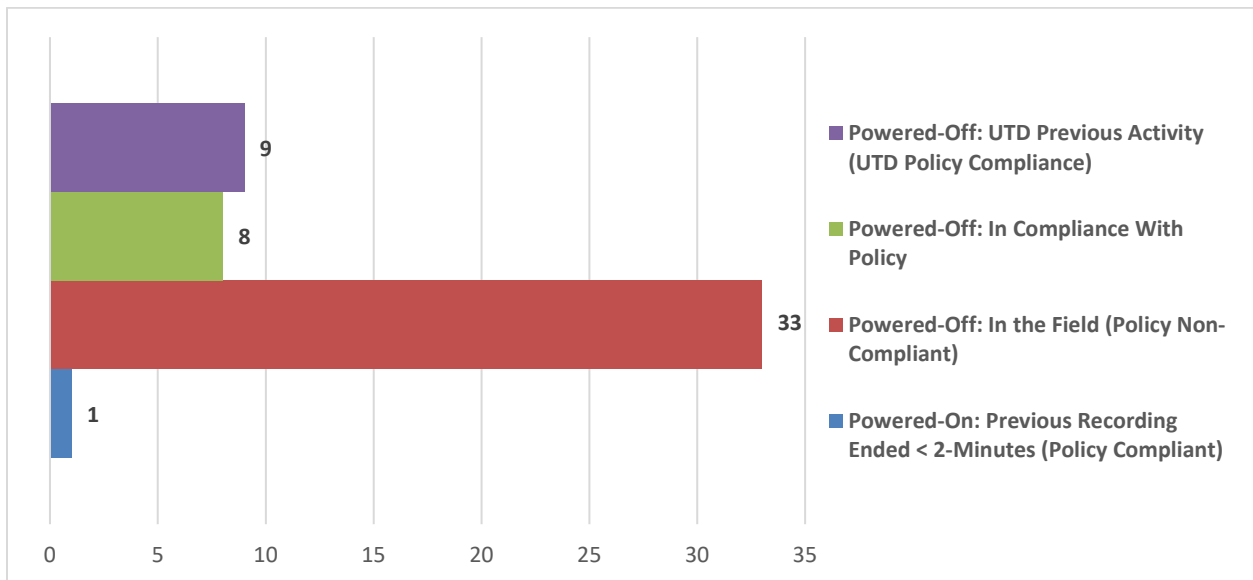
⁹ "Powering Off Body-Worn Camera Devices While in Department Facilities", Office of Constitutional Policing and Policy Notice, December 20, 2018.

found that the involved employee’s previous recording had ended less than 2 minutes prior to the recording reviewed for this report.

With respect to the 50 officers who initially had their device powered off, the OIG identified that 33 of them were deployed in the field and, thus, that Department policy required them to have their BWVs in the powered-on setting. In nine of these 50 cases, the OIG was unable to determine the activities of the involved employees prior to the incident and, therefore, unable to determine compliance with Department policy.¹⁰ In the remaining eight of 50 cases, the OIG determined that the involved employees did not violate Department policy as it authorized them to have their BWVs in the powered-off setting at the time when they had it that way.

The graph below illustrates the OIG’s findings regarding the 51 recordings that had a reduced buffer video.

Figure 1: Reduced 2-Minute Buffer Findings



2. Digital In-Car Video Compliance

In comparing timely activations, the OIG’s review found the overall rate of compliance with the Department’s DICV policy to be higher than overall rate of compliance with its BWV policy. Activation of the DICV device occurs automatically when the emergency lightbar of a police vehicle is on for at least eight seconds. The DICV recording can also be activated manually. Of the 262 employees who were substantially involved in the categorical uses of force examined in this report, the OIG found that 161 were either not required to activate their DICV system or not equipped with DICV equipment. Of the remaining 101 employees, 87 (86.1%) activated their DICV on-time, consistent with Department policy. 14 employees (13.9%) failed to activate their

¹⁰ All nine employees were field Sergeants assigned to Patrol.

DICV device, in conflict with Department policy. Further evaluation of these 14 occurrences determined that all of the underlying interactions between officers and members of the public were pedestrian stops.

D. Findings

The OIG's review determined that the overwhelming majority of substantially involved officers in the 53 categorical use of force incidents that were examined either activated their BWV devices in connection with those incidents (96.3%) or were justified in not doing so (as occurred in just one incident, accounting for an additional 0.5%). However, among those officers who did activate their devices, 41 of 210 (19.5%) did so only after a delay that was inconsistent with Department policy. These delayed activations, combined with the seven instances of a failure to activate the BWV device at all (despite a requirement by policy to do so), represent policy non-compliance of some sort in 22.1% of the total number of required activations. Furthermore, it was determined that at least 15.2%¹¹ of all required BWV activations by officers who were substantially involved in the 53 CUOFs reviewed by the OIG contained a reduced pre-activation buffer video, inconsistent with Department policy.

Finally, with respect to DICV systems, the OIG found that 14 of 101 employees (13.9%) who were both equipped with DICV devices in their vehicles and required by Department policy to activate those devices in connection with the 53 categorical use of force incidents reviewed for this report failed to initiate such activations. The OIG notes that all of the identified DICV activation failures were related to officers who were conducting pedestrian stops.

E. Recent Department Initiatives to Improve Compliance

In recent years, the Department has issued several Notices to improve officers' compliance levels with BWV and DICV policies. In January 2020, a Notice was issued reminding officers of the need to comply with the December 2018 policy requiring them to maintain their BWV device in the powered-on setting while in the field or at Department facilities and likely to become engaged in an enforcement or investigative activity with a member of the public.¹² In July 2020, the Department issued another Notice which further encouraged officers to maintain their BWV device in the powered-on setting throughout their shifts, recognizing that capturing the two-minute pre-activation buffer video may assist in identifying the actions of those involved during a sudden encounter.¹³ The Department identified, through inspections, that some officers were continuing to maintain their device in the powered-off setting while they were in the field in order to preserve the device's battery life. In response, the Department issued a Notice in August 2020 requiring

¹¹ As noted above, there were 9 instances of reduced pre-activation buffer videos (amounting to an additional 4.1% of all required BWV activations) in which it could not be determined whether a policy violation had occurred.

¹² "Body-Worn Video Device Pre-Activation Buffer; Requirement to Leave Device Powered On – Reminder", Office of the Chief of Police Notice, January 17, 2020.

¹³ "Body-Worn Video Pre-Activation Buffer Best Practice", Office of the Chief of Police Notice, July 1, 2020.

officers to maintain a charged BWV device and to ensure that the device is not powered off for the purpose of conserving its battery life.¹⁴

Commencing in June 2020, the Department implemented further evaluation of BWV and DICV compliance for those substantially involved officers who were deemed to have had compliance deficiencies during categorical uses of force. Such officers are subjected to an inspection of randomly selected incidents in which they are involved for a period of 30 days after the categorical use of force incident in order to determine whether their BWV and/or DICV compliance issues have persisted. Should additional compliance issues be identified during the inspection, corrective action may be taken.

Additionally, to further improve compliance with BWV and DICV policies, in August 2020 the Department implemented periodic (one week of every Deployment Period), standardized inspections of BWV and DICV compliance at every geographic Area. The inspections are overseen by the Office of Operations, and the results are collated and analyzed to identify training needs. To assist Area supervisors in completing their reviews of BWV recordings specifically, the Department issued a Notice that provides guidance for determining compliance with BWV policy.¹⁵

Finally, the Department also takes advantage of ancillary inspections of BWV and DICV compliance when conducting reviews or investigations of other matters that include BWV and DICV recordings by officers. Corrective action is taken whenever non-compliance with policy is identified.

F. Recommendations

Given the substantial evidentiary value that BWV and DICV can hold in an investigation, it is vital that the Department maintain a rigorous program of accountability measures – including periodic and random inspections as well as appropriate remedial action whenever a failure to adhere to applicable policy is identified – in the pursuit of full compliance with BWV and DICV policy. This review identified the following issues as warranting particular attention by the Department in its effort to achieve such compliance:

- Ensuring that officers activate their BWV devices in a timely fashion
- Ensuring that officers' BWV devices are powered on at all times while working in the field
- Ensuring that officers activate DICV equipment when initiating pedestrian stops

The OIG recommends that the Department engage in an on-going evaluation of its existing program of Area-level inspections to ensure its efficacy in addressing these matters, and that the Department employ Audit Division resources to supplement these inspections as necessary.

¹⁴ “Body-Worn Video Battery-Life Expectations for Maintaining a Charged BWV Device in the Field”, Office of the Chief of Police Notice, August 4, 2020.

¹⁵ “Body Worn Video Flowchart for Area Supervisory Review of BWV Buffering and Activation – Established”, Office of Operations Notice, November 24, 2020.

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Additionally, the Department should use its program of inspections and audits to evaluate the effectiveness of Notices that have been issued reminding officers of their responsibilities to comply with BWV and DICV policies and to determine whether further measures are warranted to maximize future policy compliance.