



The video release policy and what it means to you

We don't have one yet, but it is coming. Currently, the Chief has determined that Digital In-Car Video System (DICVS) and Body Worn Video (BWV) videos are part of the investigative process and will not be released to the public. The *Los Angeles Times*, ACLU and various activist groups are not happy with that. Neither is the Police Commission.

For some inexplicable reason, the Commission felt the need to hire a group from New York to get feedback on this issue and write a report. That is what the Policing Project at New York University School of Law (Policing Project) did. That report was presented to the Police Commission on Sept. 26, 2017.

The Policing Project gathered feedback by asking the general public and LAPD personnel to complete a questionnaire, holding community forums and conducting officer focus groups. They did this over a 46-day period from March 23 through May 7, 2017. Press releases were sent out, Chief Beck and Police Commission President Johnson held a press conference, articles appeared in various newspapers, social media channels announced it, emails were sent to 200 community organizations and staff members of the Mayor's Office and 15 City Councilmembers, neighborhood councils, student associations, and bar associations all were active in getting the word out to the public to provide input. In spite of all this effort, attendance at the party was sparse.

The report says this, "Low Response Rate: Despite extensive outreach, and a fair amount of media coverage, the response rate to the questionnaire struck us as low, and attendance at public forums was lower than anticipated." (It ranged from four to 20 individuals.) The *Los Angeles Times* wrote an extensive editorial and provided a link to the questionnaire. Only 15 people clicked on the link. The ACLU also encouraged people on its website to take the questionnaire. Only 53 people did so. Undaunted, however, by the lack of public interest, the report was completed.

So, the first thing that the Policing Project uncovered, but neglected to discern, was that this drive to establish a video release policy is driven by narrow special interests. The general public is unconcerned.

Of those who did answer the questionnaire, 17 percent were law enforcement officers (LEOs). And, as a group, their views diverged the most from the other responders. Seventy-one percent of the non-LEOs thought that videos should be released in response to public protests, while only 29 percent of LEOs thought so. On the other hand, 79 percent of LEOs thought that the risk of biasing jurors should be taken into account, while only 46 percent of the non-LEOs thought so. Frighteningly, although 84 percent of LEOs thought that the Chief's concerns for officer safety should be considered, only 46 percent of the non-LEOs agreed. It would appear that we are largely on our own.

That being said, it is important that the League be involved in determining the ultimate video release policy to be imposed on the Department by the Police Commission. We believe it is a meet and confer issue, and we will go to court if the Police Commission disagrees. The policy will certainly have an impact on working conditions.

Of top importance is the issue of officer safety. The policy needs to recognize that the release of a video can place an officer and the officer's family in danger. First, it provides those who would do harm to the officer with the officer's photograph for easy identification. Second, since uses of force are seldom pretty, the video might have the effect of enflaming passions among certain segments of the community, like gang members, to do an officer, or his/her family, harm. Finding someone's home address these days on the internet does not present much of a problem, especially since the Department is so forthcoming with officers' names in connection with uses of force. The policy needs to address this issue and recognize the danger.

Should every video be released, or should it be decided on a case-by-case basis? Eighty-eight percent of the non-LEOs thought that every video should be released at some point in time.

A related question is, just who ultimately decides to release a video? Is it the Chief? Is it the Police Commission? Is it the ACLU or the media? Is it the family of the injured or deceased suspect? What if an officer is murdered on camera? Should the officer's family have a say on whether the video should be released? (The Policing Project report did not even consider this issue.)

If every video is to be released, what is the time frame? Forty-nine percent of non-LEOs wanted it to be within 30 days, 16 percent were willing to go out 60 days, and 11 percent wanted release within 120 days. Only 8 percent were willing to wait until the Police Commission adjudicated the use of force, while 14 percent would wait until the District Attorney decided whether or not to file charges. Obviously, the release of a video prior to the adjudication of the use of force, from the officer's point of view, invites the political wind to blow on the adjudication decision. No use of force is perfect, and it can probably be counted on that activist groups and the media would emphasize any imperfection.

Another issue that was not addressed was the scope of the video to be released. For instance, what if there is an hour of vehicle pursuit video from several units before an officer-involved shooting occurred before the usual foot pursuit that occurs when the suspect bails out of the vehicle and runs? Is only the video of the actual shooting subject to release, or does the release include all of the DICVS and BWV tapes from the start of the vehicle pursuit from every unit

and officer involved, even though only one video depicted the shooting during the foot pursuit?

What about a situation where a shooting takes place within two minutes of an officer going to the bathroom? With a two-minute buffer video capture time prior to the pushing of the record button, this is certainly possible. Does the policy address a method of keeping such personal actions from being released with the rest of the video? And, again, who makes that decision?

The point is that a video release policy has a huge impact on an officer's working conditions given that an officer is required to hit that record button. The League needs to be involved in forming that policy to provide as much protection for its members as possible.

Be legally careful out there.

Links to various things in this article are at www.warningbells.com.