



Procedure Number: OSP-103.22-01

DUI ENFORCEMENT USING IN-CAR VIDEOTAPING

Summary of Revisions
Purpose
Policy
Special Provisions
Policy References
Standard References
Attachments

Date of Revision **03/30/2000**
Priority Review **All Sworn Officers**
Distribution **All**

Summary of Revisions

Revisions are in bold, italic.

Policy, Page 3, K, revised to add "Privileged communications in a patrol car will not be monitored or recorded."

Policy, Page 3, L, revised paragraph to read "Chemical Testing Procedures - In order to comply with RFI procedures the arresting officer will ensure that all microphones worn by officers in the BAC Room be turned off during the testing process."

Purpose

To establish guidelines for officers utilizing in-car videotaping equipment for the arrest of impaired driving (DUI) offenders in a manner that will gather evidence showing the driving, field sobriety testing, and arrest of the DUI suspect. When using in-car video systems for patrol duties, officers shall adhere to the guidelines set forth in policy OSP-103.22, Audio/Video/Monitoring/Recording.

Policy

A. GENERAL - When using patrol vehicles equipped with in-car video systems for DUI enforcement, officers will make every effort to show the degree of impairment of the driver through audio and visual recording of the driving/traffic violations committed by the driver and standardized field sobriety testing conducted in the field.

Officers shall conduct all violator contacts with the safety of the officer and the violator of paramount concern. Officers shall record all events surrounding the driver's actions, stop, and arrest of the suspect without jeopardizing sound officer safety tactics. Arresting officers must remember that their actions are being recorded and conduct themselves professionally while adhering to all legal and procedural guidelines at all times. The tape shall be maintained for criminal prosecution.

Officers must realize the video recording is only to be used in addition to and never in lieu of all required documentation of any incident including, but not limited to, the Statement of Facts, HP-25A, HP-70G, etc.

B. INSPECTION, MAINTENANCE, AND REPAIR - Officers assigned vehicles with in-car video systems shall be responsible for maintaining the equipment in the condition in which it was issued in accordance with the manufacturer's recommendations. Regarding maintenance and repair of the equipment, officers shall follow the guidelines outlined in policy OSP-103.22, Audio/Video Monitoring/Recording.

If the officer finds the equipment is not functioning properly, it will not be necessary to take the car out of service, but the in-car video system will not be used until repaired.

C. IDENTIFICATION AND STORAGE OF RECORDED TAPES - Recorded tapes will be stored in accordance with Policy OSP-103.22, Audio/Video Monitoring/Recording.

Video recordings/tapes may also be saved for reasons other than evidence; i.e. officer safety review, training, possible civil litigation, to protect the officer from unfounded complaints, etc. Any tape saved for legitimate law enforcement/administrative use should be stored in a secure area accessible only to authorized Division employees.

D. RECORDING THE IMPAIRED DRIVING - When an officer observes an indicator of possible impairment and has made the decision to start an investigation of the violator, the officer shall manually activate the in-car video system.

Once the in-car video system is activated, the officer will orally articulate the initial traffic violation observed and/or any indicators that lead the officer to suspect impairment. Since the camera may miss certain actions, it is imperative that the officer articulate both the reasonable suspicion to stop and the probable cause to arrest. This will also assist the "untrained eye" during prosecution. This articulation will continue through the entire recording process.

Officers shall also verbalize the type of vehicle being observed, location of the vehicle, license plate number, number of occupants, and direction of travel. Officers should not follow a vehicle any longer than needed to establish probable cause for the traffic stop, with all indicators of intoxication being articulated for the mobile video recording.

E. TRAFFIC STOP - The suspect's vehicle shall be stopped in a location that is as safe as possible for both the suspect and the officer. The officer's vehicle should be approximately two car lengths behind the suspect's vehicle, in order to create a proper area for field sobriety testing so that the camera will capture all testing.

Correct positioning of the camera will be done before exiting the patrol vehicle unless safety dictates otherwise. If two car lengths are not possible, the officer shall adjust the camera angle, creating a safe and effective area for the performance of field sobriety tests.

F. LIGHTING - Optimum lighting at night shall be used whenever possible. Low beam headlights and take-down lights shall be used at a minimum. The spotlight should be directed at the area where the field sobriety tests are to be performed. High beam headlights shall only be used when needed for officer safety. Overhead Emergency/Pursuit Lights shall remain on for safety.

G. FIELD SOBRIETY TESTING - Upon contacting the suspected DUI driver, the officer should articulate any indications of impairment (bloodshot eyes, odor of alcoholic beverage, obvious lack of coordination, etc.) as they develop and when, in the officer's judgement, it is appropriate to do so. These indicators, while present, may or may not be picked up by the audio/video recording.

The location for field sobriety testing should be selected based on officer safety considerations. This may mean the tests are conducted in a location in which video is not possible. For Example: It is fundamentally sound to conduct the tests to the right rear of the patrol car. The officer should be at a 45° angle facing the suspect and the suspect vehicle.

The reason for the 45° angle is so that we do not violate HGN testing procedures by having the suspect facing the patrol car strobe lights. The suspect must be facing away from the strobe lights when the officer is conducting the HGN tests. (See Attachment #2) Do not conduct the tests between the patrol car and suspect vehicle. If the officer desires to conduct the tests on video, she/he should turn the camera to the right and conduct the tests as indicated on attachment #3.

H. PROCEDURES FOR ARREST - When officer safety considerations are met, the officer is encouraged to have the following items in view of the camera: placing under arrest, handcuffing, and the reading of the Miranda Rights.

If there are no other occupants in the suspect's vehicle, the officer shall search the suspect's vehicle incident to the arrest. Any evidence of intoxicants present in the vehicle shall be removed from the vehicle and placed on the rear of the suspect's vehicle in view of the mobile video system or on the hood of the officer's patrol vehicle in view of the camera. Both searches of the suspect and of the suspect's vehicle shall be both audio and video recorded, with the officer describing for the mobile video system what evidence is found and where the item was located. Once again, the above direction is a discretionary consideration based on officer safety concerns.

I. PROCEDURES FOR OTHER OCCUPANTS OF SUSPECT'S VEHICLE - Any other occupants of the suspect's vehicle who are not arrested shall be identified, and a field interrogation shall be conducted. The officer conducting the interrogation shall ask questions concerning the suspect's consumption of intoxicants, destination, state of sobriety, and other pertinent information concerning the arrested suspect.

J. VEHICLE DISPOSITION - The suspect's vehicle will be secured in accordance with Division policy. If it is released to an occupant of the vehicle, verbal consent from the suspect should be recorded on videotape (unless the vehicle is owned by one of the occupants). Any person who is to operate the vehicle shall consent and undergo the same field sobriety tests that were administered to the suspect. They shall also be recorded on the mobile video if it is a safe location for the officer to do so.

If the vehicle is to be towed, the officer may continue the recording process until the suspect's car has been release to the wrecker for transportation.

If the officer chooses to secure the vehicle and leave it at the scene (if possible to safely do so) with the consent of the suspect, the officer shall continue the recording process until the suspect's car has been secured with the videotaped consent of the arrested suspect.

K. SUSPECT TRANSPORTATION - After the suspect has been placed into the patrol vehicle and the officer prepares to transport the suspect from the scene, the video equipment should be positioned in the direction of the suspect, if possible. At a minimum, the internal audio should be maintained during all transport. Voluntary statements made by the suspect during transportation may be used as evidence so long as the statements are not interpreted as an interrogation by the officer. The officer has no obligation to advise the suspect that they are being recorded; however, the officer will advise the suspect if asked. *Privileged communications in a patrol vehicle will not be monitored or recorded.*

L. CHEMICAL TESTING PROCEDURES - *In order to comply with RFI procedures the arresting officer will ensure that all microphones worn by officers in the BAC Room be turned off during the testing process.*

M. DUPLICATION OF VIDEO TAPES - Video tapes which may be used as evidence shall be processed as evidence in accordance with Policy OSP-103.10 (Storage and Disposition of Evidence/Recovered Property). Patrol facilities with mobile video recording vehicles assigned will be provided with the necessary equipment for video tape duplication at the facility. This will allow duplication of tapes while maintaining the evidentiary chain.

1. Display and/or duplication of video tapes regarded as evidence shall be limited to Division employees, those specifically designated by the prosecutor, or those individuals authorized under court order.
2. Video tapes generated by the Division (other than those of an evidentiary nature) which are being retained under the 30-day provision are subject to public records law (DPS-400.04). Reproduction of video tapes generated by the Division without authorization of the Superintendent or his designee is prohibited.
3. Video tapes will only be duplicated on blank tapes provided by the authorized person(s) making the request. The Division will not provide tapes for this purpose.

Special Provisions

A. **MOBILE VIDEOTAPING CHECKLIST (Attachment #1)** - Officers should periodically review a videotape generated during their patrol operations with their immediate supervisors in an effort to continually improve overall operations and to improve their use of the mobile videotape. The goal is to improve operations and not to be critical or punitive.

At least once per month, the officer and his/her supervisor should review a tape randomly selected by the supervisor. The attached checklist should be used when reviewing these tapes. It should be completed by the supervisor as he/she reviews the tape with the officer. This checklist is for review and training only and may be destroyed after use. Note that several items on the checklist may not be visually recorded because of officer discretion for officer safety reasons.

Standard References

41.3.08

Policy References

DPS-300.03	PLACEMENT OF EQUIPMENT IN VEHICLES
DPS-400.04	ADMINISTRATION OF PUBLIC RECORDS REQUESTS
HP-ADM3504	CERTIFICATE OF RECORDS DISPOSAL
OSP-103.10	STORAGE AND DISPOSITION OF EVIDENCE AND RECOVERED PROPERTY
OSP-103.22	AUDIO / VIDEO MONITORING AND RECORDING

Attachments

- #1 - Mobile Videotaping Checklist
- #2 - Officer/Suspect Placement
- #3 - Officer/Suspect Placement

MOBILE VIDEOTAPING CHECKLIST

SYSTEM OPERATION

Needs Improvement

- _____ A. Proper initial camera adjustment
- _____ B. Audio system activated
- _____ C. Video system activated
- _____ D. System realignment after violator contact
- _____ E. _____

PROBABLE CAUSE/"SUSPECT'S CAR"

- _____ A. Verbalizing probable cause "Indicators"
- _____ B. Verbalizing traffic violations
- _____ C. Initial vehicle stop
- _____ D. _____

PROBABLE CAUSE/"IMPAIRED DRIVER"

- _____ A. Initial contact
- _____ B. Field sobriety tests
- _____ C. Articulate probable cause
- _____ D. Articulate officer sensory perception
- _____ E. _____

LIGHTING

- _____ A. Low beam headlights
- _____ B. Spotlight
- _____ C. Overheads/strobes
- _____ D. Flashlight
- _____ E. Takedown lights
- _____ F. Pointing lights at camera
- _____ G. _____

PROPER MVT TECHNIQUES

Needs Improvement

- _____ A. Proper patrol car position
- _____ B. Proper "Arena of Performance"
- _____ C. Defendant facing patrol car
- _____ D. Officer's back to patrol car
- _____ E. Officer not blocking camera
- _____ F. Handcuffing suspect
- _____ G. Recording after custodial arrest
- _____ H. Recording vehicle search
- _____ I. Vehicle disposition
- _____ J. _____

OFFICER SAFETY OVERALL

- _____ A. Officer approach of defendant's vehicle
- _____ B. Position of patrol vehicle
- _____ C. Approach of defendant by officer
- _____ D. "Arena of Performance"
- _____ E. Always face defendant
- _____ F. Control of other subjects
- _____ G. Proper handcuffing technique
- _____ H. Proper searching technique/vehicle & defendants
- _____ I. Follow defendant too long
- _____ J. _____

FIELD SOBRIETY TESTING

- _____ A. HGN
- _____ B. Walk & turn (9 steps)
- _____ C. One-legged stand (30 seconds)
- _____ D. Officer demonstration of tests
- _____ E. Use of alternate field sobriety tests
- _____ F. Articulate mistakes of suspect
- _____ G. _____

LEGAL

- _____ A. Improper questioning
- _____ B. Search vehicle without probable cause
- _____ C. Improper search of suspect
- _____ D. Improper search of suspect's vehicle
- _____ E. I.D. all persons & voices appearing on tape
- _____ F. Miranda warnings on tape
- _____ G. Implied consent warnings on tape
- _____ H. Breath test refusal on tape
- _____ I. Custodial interrogation on tape
- _____ J. _____

EVIDENCE COLLECTION

Needs Improvement

- _____ A. Videotape evidence found
- _____ B. Chain of Custody of video

COMMENTS

Officer/Suspect Placement

