



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police

SUBJECT: OPD's Use of Critical Incident
Videos LLC

DATE: April 19, 2022

City Administrator Approval 

Date: Apr 27, 2022

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The Oakland Police Department (OPD) Describing The Use Of The Company Critical Incident Videos LLC (CIV), Including, But Not Limited To, Cost Per Video, OPD's Involvement In The Editing Process, The Role Of City Leadership Or OPD Oversight Bodies In Editing Or Review, How OPD Decides When To Release The CIV Videos, And The Timing Of OPD's Release Of Raw Video Footage.

EXECUTIVE SUMMARY

The Oakland Police Department is committed to ensuring the safety and security of the Oakland Community. OPD continues to focus on reducing violent crime with the sanctity and preservation of life as the department's highest goal. When an officer is involved in lethal force that leads to death or serious bodily injury, OPD conducts the highest level of investigative follow up demonstrating a high level of accountability and transparency with the public. OPD also relies on body-worn cameras (BWC) to generate audio and video footage evidence - this tool is now a hallmark of OPD's commitment to transparency. OPD uses the BWC video documentation to investigate officer use of force (UOF), especially in the case of an officer-involved shooting (OIS).

State law (SB1421) requires that certain peace officer or custodial officer UOF (including OIS) be made available for public inspection pursuant to the California Public Records Act. Per DGO K4 (UOF reporting investigations) OPD always conducts internal investigations in the event of an OIS, in collaboration with the OPD's Homicide Unit, Internal Affairs Division, Alameda County District Attorney's office, and the City of Oakland's Community Police Review Agency (CPRA). The results are reviewed by OPD's Executive Team as well as the City's Police Commission and other stakeholders.

OPD utilizes Critical Incident Videos, LLC (CIV), a film and video production company to produce the videos that are made available to the public, so that the context of the raw BWC video is contextualized. In these videos, in which officers may be running, there may be a lot of movement from different people and different sounds. Video may be recorded from different angles. Also, the compilation of videos from different officers creates layers of footage and it can

be challenging to put together a complete picture of what has occurred. CIV helps OPD to present a more coherent presentation of the totality of the video footage – along with the raw footage – so the public benefits from truly seeing the activity that occurred in each OIS situation. This report explains the investigation processes related to OIS investigations and provides examples of CIV-produced videos from recent OIS events, as well as links to the online presentations.

BACKGROUND / LEGISLATIVE HISTORY

Policing and OPD Transparency

OPD is focused on providing procedurally just policing services to the residents and visitors of Oakland. This task is challenged by the high level of violent and property crime which occurs in Oakland. 2021 saw 134 homicides and a total of 559 firearm related aggravated assaults. OPD leadership and staff are committed to providing the public with procedurally just police services despite these challenges.

Officers are issued firearms as a standard component of modern policing for situations of extreme danger where officers may need to protect members of the public and/or themselves. OPD policies govern the situations in which firearms may be used. In 2020, there were two officer-involved shootings (OIS); there were four such incidents in 2021.

OPD also relies on BWC as a foundation of the department's approach to transparency in police services. OPD's recent [BWC contract report](#), "OPD Axon Body-Worn Camera Contract," dated September 7, 2021 and presented to the City Council on September 21, 2021 explained that:

BWCs are used nationwide to increase public trust, transparency, and accountability for law enforcement, as they allow police agencies to document all manners of police activity and interactions with the public. BWC audio and video footage create important evidence used for examining police conduct. The Oakland Police Department (OPD) has been an early adopter of the technology, which has increasingly become a national policing standard. OPD has also seen a decrease in public complaints since adopting the use of BWCs in 2010.

OPD utilizes BWC video documentation of OIS events for internal investigations as well as for sharing information about OIS events with the public.

Senate Bill 1421 and Release of Records

SB 1421, Skinner. Peace Officers: Release of Records¹ requires that notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents (e.g., officer-involved shootings and other serious uses of force (UOF)) be made available for public inspection pursuant to the California Public Records Act. OPD complies with this law and uses BWC video documentation for both internal investigations as well as for providing the public with relevant information compliant with SB 1421.

¹ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1421

ANALYSIS AND POLICY ALTERNATIVES

OPD follows a multi-step procedure for each OIS to ensure that internal investigations occur appropriately in addition to maintaining a standardized approach to release of information process. OPD's contract with Critical Incident Video, LLC for video production and a multi-step procedure to provide the videos to the public advance the Citywide priority of **responsive, trustworthy government**.

OIS Video Release: OPD Internal Affairs Investigation

In the event of an OIS, OPD's Internal Affairs Division (IAD) always conducts an investigation to determine the totality of what occurred relating to the use of force (UOF), and to examine if the evidence points to any violations of OPD policy; the analysis will include BWC footage as well as any associated video and audio from OPD dispatch (CAD) and/or any video from private cameras that may have recorded the related event(s). Through the course of an OIS investigation, the assigned investigator is responsible for reviewing all of the BWC video associated to this incident. An Executive Force Review Board is then convened to determine the appropriate discipline, if warranted, based on the facts. The results then go to the City's Police Commission for review. Separately, the City's Community Police Review Agency (CPRA) will conduct its own investigation.

Before the video is made public, the associated video is reviewed by the Office of the City Attorney (OCA); OCA (not OPD staff) will determine if any raw footage needs to be redacted before any public release. The video is then reviewed by the City Administrator, the Mayor, and the Chair of the City's Police Commission. A representative from the Independent Monitoring Team (IMT)² also has a chance to review the video footage.

OPD Collaboration with Critical Incident Video LLC

OPD's main goal in using an outside video production firm with the release of OIS video is for the public to understand the context of the raw BWC video as it relates to the event(s). OPD does release the unedited videos; however, OPD also believes that the best interest of the public is served by providing contextual information alongside the unedited videos, so viewers have a clear picture of the timeline of events. In BWC videos, such as the cases below, officers can be running and/or using loud voices to articulate direction in very challenging situations. There may be an imminent risk to individuals captured in the BWC footage and in these tense circumstances, the BWC video features a lot of movement and change of angles as officers move quickly. Also, the compilation of BWC from different officers and different cameras can limit the ability of an inexperienced viewer to form a complete picture of events transpiring across multiple BWC video streams with so much movement and life-threatening activity.

After an OIS occurs, OPD in collaboration with OCA, crafts a script with the CIV team. The script is written to be clear, concise, transparent, and non-biased for the viewer. The script is used to put the incident into perspective by providing a contextual and accurate depiction of the incident to complement the raw footage.

² <https://www.oaklandca.gov/resources/oakland-police-negotiated-settlement-agreement-nsa-reports>

Once the script is approved by OCA, the Assistant Chief, and Chief of Police, the CIV team records the Chief's approved prepared introduction and closing statements. Then the CIV drafts a video that has the Chief's statement and may also include the BWC video, CAD audio, and any surrounding video recovered by OPD.

From there, the video goes through multiple drafts until it is approved by the OCA, Assistant Chief, and Chief of Police. The video is then presented to OPD's executive team (Chief, Assistant Chief, all Deputy Chief's, Captain of IAD, the Lieutenant of OPD's Office of Inspector General), the Mayor, the City Administrator, the Police Commission Chair, and the IMT for final review. Once approved the video is then ready for public release.

Actual CIV-Produced Videos released to the Public

On June 23, 2020, OPD released a CIV-produced video³ related to an OIS on April 16, 2020 in Richmond, CA. There was a call to OPD Communications Dispatch about a woman's body being dumped in the Oakland Hills. During the following pursuit, the suspect pointed a firearm at OPD and Richmond PD officers. The suspect was fatally shot.

On December 18, 2020, OPD released a CIV-produced video⁴ related to an OIS connected to November 3, 2020 caravans of looters breaking into local businesses. The raw video is introduced by a statement by then-Interim Chief Susan Manheimer. The video involves a suspect running over an OPD officer with a vehicle. The video shows another OPD officer then discharging his service firearm towards the driver of the vehicle.

FISCAL IMPACT

OPD entered into a two-year \$50,000 contract with CIV, on July 1, 2020 - the contract ends on June 30, 2023. The CIV contract includes compiling a variety of media materials related to incidents and providing technical expertise in video production for media and public release. The amount of time required to produce each video varies; \$350 per hour is allotted per contract terms for the contractor's work for each video production project.

³ <https://www.youtube.com/watch?v=rWjJ4I4WvNs>

⁴ <https://www.youtube.com/watch?v=yfL1vSBcYfk>

PUBLIC OUTREACH / INTEREST

No outreach was required beyond standard City of Oakland noticing requirements. OPD provided numerous press release and press events in addition to posting each CIV-produced OIS related video online for public viewing.

COORDINATION

This report did not require interdepartmental coordination.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic activities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

Race and Social Equity: This item is of interest to the public as OIS impact the families of those injured and/or killed. Trauma is caused when anyone is killed, and the trauma can be exacerbated when law enforcement is involved. Furthermore, entire neighborhoods can be negatively impacted by these violent events. The two 2021 OIS occurred in less advantaged communities and areas which are already facing the trauma of higher levels of violent crime and have been impacted by OIS homicides.

ACTION REQUESTED OF THE CITY COUNCIL

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For questions about this report, please contact Paul Chambers, Strategic Communications Manager at pchambers@oaklandca.gov.

Respectfully submitted,



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