

**WHO'S WATCHING THE COPS?
JUST ABOUT EVERYONE!**

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The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

WHO'S WATCHING THE COPS? JUST ABOUT EVERYONE!

First it was, "Smile, you are on candid camera," and now it could be, "Smile, you may go viral." The public has always shown an interest in how law enforcement performs its duties. Since the beginning, television shows depicting police officers performing their duties have been very popular and have influenced public perception. As many practitioners know, though, reality often differs dramatically from fiction. The net result of decades of media depictions of the police has resulted in wildly inaccurate perceptions of police capacity. This can lead to dissatisfaction when dealing with the real police for real-life crime.

Police work requires many man hours in following up leads, gathering evidence, and tracking down an elusive suspect. In contrast, the police television show has one hour in which to solve the crime, apprehend the suspect and bring the suspect to justice while using a wide variety of resources. We will explore this gap in perception, the colliding worlds of advanced technology and the always-curious public, and how those worlds can create a means by which the public can be positively influenced and educated about how law enforcement officers perform their daily duties.

Entertainment Value

American society is obsessed with law enforcement type television shows. This is confirmed by the number of shows which depict law enforcement activity from the street cops and forensic technicians to the crime labs and the court room. Currently, weekly television shows, such as Law & Order and CSI, depict police officers discharging their weapons, finding crucial DNA evidence (which is processed within hours of collection), violating the civil rights of detainees through various interrogation

techniques, and, of course, an astute detective who solves the crime. The reality of law enforcement is that all crimes are not solved because DNA evidence does not miraculously appear; nor is it processed within hours of collection. Real life police work is much harder and requires a tremendous amount of patience and fortitude to identify a suspect and build a case.

This genre of entertainment has given the public a false perception of the day-to-day activities of law enforcement officers. Shows, such as COPS, have attempted to provide a more realistic view of an officer's activities in the field. Episodes are edited, though, to obtain maximum entertainment value and provide a more positive view of law enforcement. A Southern California police chief expressed caution in participating in shows that wish to show law enforcement officers contact with suspects. He said that "many times the show's film crew highlight the more undesirable parts of a city rather than show positive activity." Basically there is no show if there is no action, typically negative. In fact, participating police departments are given editorial rights in the filming of shows such as COPS. The result is an environment controlled by the producer and the law enforcement agency.

Even in shows that may attempt to "scare" the audience, the content are cooperatively edited so that control is maintained. A California police department recently participated in a show that followed arrestees on a ride to jail. The transporting officer interviewed the arrestee, asking what led them to their current condition and what changes they would make in their lives. To the veteran observer, the questioning might have appeared to be contrived. This thought could be exacerbated by the knowledge the police chief was given full editorial rights and screened each completed episode.

It is understandable there is a delicate balance between entertainment and real life police work. Both types of entertainment have a negative and positive impact on the viewing public. Because of the impact of fictional police dramas, the public may tend to believe officers responding to their homes for burglaries will be bringing out a forensic tech to identify evidence which will lead to solving the crime and finding their stolen property. In many cases, though, a report is taken and the premises secured without bringing out a battery of personnel to investigate the crime. The public becomes disenfranchised when expectation does not match reality, and because they feel enough has not been done to solve the crime. City council meeting minutes are then filled with complaints from citizens that feel the local police department did not do enough to find their stolen property or provide protection.

A positive impact of these television shows is the viewing public may empathize with the officers and what they must be prepared to see and do during their career. Additionally, many of the fictional shows also depict an officer's personal life and the impact of their career on an officer's family. The result is a more humanist view provided to the public contrary to the earlier police shows like Dragnet and Highway Patrol. Although in their time, these shows were viewed as positive depictions of brave civil servants, we never knew much about them personally. Today's shows provide greater detail of the home life, including the imperfect relationships and also the advances made in technology over the last five decades.

Technology

Technology has advanced significantly since the Rodney King beating was captured on video in March 1991. We have gone from Beta to VHS, from brick phones

to cell phones, from cell phones to smart phones and now technology to allow real-time viewing of events as they occur. The cell phone was introduced in 1983 and had a growth rate of 40 percent each year (NHTSA, 1997). In 1997, the National Highway Transportation Safety Association (NHTSA) estimated that by 2000 there would be 30 million users.

In 2010, the International Telecommunications Union reported by the end of 2009 there were around 4.6 billion mobile cellular subscriptions.” (February, 2009) Along with this major technological advancement and the availability of the Internet there is a major global effect on law enforcement. Millions of people are armed with small gadgets that can record and deliver real footage of day-to-day activities.

In an article titled, How to Record the Cops, Radley Balko (2010) notes that “one reason this issue has heated up recently is that the democratization of technology has made it easier than ever for just about anyone to pull out a camera and quickly document an encounter with police.” YouTube is a prime example of how anyone with access to the Internet can record cell phone video of a police officer’s activities and immediately upload the recording for millions to see. For example, the accidental shooting of a man by a BART Officer in the early hours of New Year’s Day 2009 was immediately uploaded to YouTube for millions to view via the Internet. This type of immediate posting does not allow for editing or censorship, and may not always be a reliable record of events.

In light of this activity, a few states have enacted laws that prohibit the recording of an officer while in the performance of their duties. Illinois, Massachusetts, and Maryland are among the 12 states in which all parties must consent for a recording to be

legal unless, as with TV news crews, it is obvious to all that recording is underway (McElroy, Wendy, June 2010). It has been reported that “camera-wielding citizens were arrested in Maryland, Illinois, and Massachusetts under interpretations of state wiretapping laws, while others were arrested in New Hampshire, Ohio, Oregon, Florida and elsewhere based on vaguer charges related to obstructing or interfering with a police officer” (Balko, R. 2010). In Illinois, the courts have upheld charges of eavesdropping when an art peddler who was arrested for selling artwork without a license recorded the arrest (Drew vs. Illinois, 2009). Because of a public desire to protect individual rights, enacted laws will not completely stop individuals from recording police officer activities. Further, the penchant for society to increasingly record any and all actions by their government should lead law enforcement agencies to develop and utilize technologies to ensure transparency. One of these means for a progressive agency could be to provide real-time video streaming of their officers in action.

The Live Feed

Since there appears to be an odd “love affair” between the public and police work, one can envision providing live video streaming of police officers’ activities as an attractive project. The live video stream could be similar to other entertainment projects seen on cable television, and would certainly give the public a different perception of the role of law enforcement in society. The public could pay, through a subscriber fee, to view an officer’s daily activities. A camera would be worn by the officer to record all his contacts with the public. Access may be obtained from a webpage established to allow for real-time viewing.

There are many agencies that already have their officers digitally record all contacts with the use of audio recorders and/or use in-car cameras that record all audio and visual information from traffic stops. The positive attributes of these two technologies are the recording of the information. The negative attribute to the in-car camera recording system is it only records what is in front of the camera; and, if the officer moves out of sight of the camera, there is no recording. Some law enforcement agencies have already begun using the first generation of body cameras that allow for recording away from the dash-mounted cameras.

A new system, Axon by TASER International, combines the benefit of audio and video recording with a body worn camera that captures what an officer observes. Several law enforcement agencies are currently testing the system. The benefit to the body worn camera would be, as the officer moves, the camera view stays with the officer. Most activity takes place away from the police unit and the body worn camera would capture the activity.

The benefit to agencies that have their officer's actions being recorded would be many, such as: 1) the recording could be used for evidentiary purposes in both criminal and civil courts; 2) if all officers knew their actions were being recorded, it could raise their level of professionalism; 3) it could also exonerate them of false or malicious accusations; 4) it could be used as a community outreach tool to show what officers in any given geographical area encounter on a daily basis, garnering public support for agencies; 5) on duty supervisors could use the technology as a tool to supervise and monitor officers in the field; and 6) the technology could also be used as a training tool. Confirming these benefits is Lt. Lisa Otterbacher, interim police chief of Whitewater,

Wisconsin, who stated the Axon “is a great tool for administrators. ...save her officers time on-scene, ...to be the objective eye should a community complaint arise, ...evidence in cases, and to uniquely provide a training opportunity.” (Tabatha, April, 2011)

Live pay-per-view video streaming could also prove to be a revenue source for cash strapped agencies. Agencies that do not have the ability to self fund this technology could then look to the public/private partnership. This relationship would allow for a private business to supply the necessary technology and the public to benefit from the relationship. The public would benefit by seeing a realistic view of law enforcement performing their duties and the previously mentioned positive attributes. If there were profits made, there would be some type of profit-sharing between the two entities.

Both officers and the public may have concerns with the protection of privacy. Officers might play to the camera, and may expect remuneration if there is a profit being made. The same may be true for the public; they may object to being filmed. Privacy concerns the public may have include living streaming of officers speaking to sexual assault victims or child abuse victims. Currently, California Penal Code 293.5 allows victims of sexual assault to maintain their confidentiality. Protocols should be put in place allowing a victim of a crime to opt out of any recording. Officers see very graphic things and it would not be wise to live stream graphic scenes without some kind of parameters. Protection for sensitive events could be addressed by incorporating a “delay” switch to provide time for the police to delete or edit items either legally protected, or which are too shocking for general release.

Law enforcement agencies would also need to maintain control over broadcasts to protect victim and witness privacy, and to ensure evidence is not tainted by premature

viewing by potential jurors. Currently, law enforcement agencies have the latitude to not release key information or evidence to the general public if it hinders the officers from identifying and apprehending the suspect(s). This key investigative tool would be lost if some form of redaction of content were not allowed. Secondly, there would need to be some form of editing or redaction of witnesses when the identity of the witness or victim would put them in jeopardy. This would be true especially in gang related cases.

If this technology were implemented, resistance could also come from law enforcement officers. Most officers would not want their every movement captured on video and then some portion of that activity broadcast over the internet. There may be a variety of reasons given for this and following is an exploration of the possible resistance to live video streaming.

First, officers may claim their privacy is being invaded. This can be clarified when they better understand that, while in the performance of their duties, they do not have a right to privacy. During their break time or meal time they do, but not while performing their official duties. The public they come in contact with may have a right to privacy and this issue would need to be addressed.

Secondly, officers may object to their activities being captured because it could be used as a form of monitoring by their supervisors. It could also be used in criminal court and civil court against the officer. Police work, like most professions, is not an exact science and has imperfect humans performing it, in spite of stellar training. The video would assist with the prosecution of suspects; it would also provide a clear record of what transpired at any incident. More often than not, this would exonerate an officer of allegations of wrongdoing.

Finally, a possible concern may be the myopic view that a recording would show only one view of an incident. If only one camera view is available, and it contradicts what the officer conveys in his report, it could pit the officer's word or report against the view of the camera and cause credibility issues for the officer. If an agency implements policy on when and where to record and the officer neglects to record, whether it's the officer's fault or the technology's fault, there may also be accusations of wrongdoing simply to cover up an alleged misdeed. The internal policies of any agency electing to video stream would need to account for these issues and more.

Conclusion

Based on the public's actions of recording the activities of law enforcement officers, society has reached a tipping point demanding greater transparency. It is imperative for law enforcement agencies to use available tools to become more transparent, dispelling the myths created by current media entertainment. The ability to provide live video streaming is available today and implementing the technology will give the public greater access and increase trust in those who serve them. Ignoring the available technology will only result in one side being told.

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