

**Reinventing the Police Report for the 21st Century
Are Video Police Reports the Answer?**

By

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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).

Reinventing the Police Report for the 21st Century Are Video Police Reports the Answer?

Officers respond to a call of domestic violence in progress. They arrive to hear screams of pain and anguish coming from a woman's voice emanating from somewhere in the back of the house. They hear a male voice in a hushed tone whisper, "Shut up". The officers enter but proceed cautiously toward the back of the house. They know this will be one of the most dangerous calls they will answer as police officers. Turning the corner, they see a man at the foot of the bed, pacing back and forth; obviously angry. A woman sits on the floor at his feet with her face in her hands sobbing uncontrollably. The officers announce their presence and immediately detain the angry man for their own safety. After removing him from the bedroom, they return to interview the sobbing woman still on the floor. They listen to her story of an intoxicated, jealous husband. She arrived home from work this evening to a barrage of questions about her friendship with a coworker. Unable to answer the questions to his satisfaction, he slapped her three maybe four times in the face and then pushed her to the ground. She was surprised to see the police arrive; she did not call for help. She was happy the abuse would stop, but knew the police wouldn't be the long-term solution either. This wasn't the first time she'd been through this process.

Video Recorded Interviews

In the incident described above, as always, the responding patrol officers interview the victim and any witnesses, and then later transfer their notes into a written police report documenting the circumstances of the incident. The written police report continues to be the only means of documenting criminal events used by law enforcement.

Although the first responder rarely video records the initial interviews, detectives commonly conduct video interviews of victims, witnesses and suspects and then summarized the interview in a written police report. The process used by detectives is the most accurate method to date for collecting and presenting the factual circumstances of an investigation, but there is still much room for improvement. It is hard to overstate the impact seeing an actual interview has on juries.

Viewing video interviews, jurors are able to make credibility assessments of the victims, witnesses and suspects through their own observations rather than through the recollections of witnesses via oral testimony in court. Video recording interviews of suspects is commonplace, and in many jurisdictions a requirement; yet, it is not common police procedure to video record initial interviews of victims and witnesses. Video recording technology, though, has improved to the point where it is practical for officers to carry a personal video camera. Once officers have a personal video camera, the next step should be using the video as the police report instead of documenting events in a written format.

[Officer records Domestic Violence victim interview \[Video Clip\]](#)

Problems Associated with Written Police Reports

Once the officer determines the situation warrants a report, she will gather and note the information necessary including observations and other statements of circumstances deemed to be important. Those facts will be summarized in written form to assist the officer in recalling the incident later in court.

The first problem associated with this process is the officer's biases. Based on life experiences, psychological studies demonstrate information received is filtered to

conform to our preconceived understandings of how it fits with the information we have previously received and encoded. Confirmation bias is a subconscious process by which the decision maker accepts information which confirms an established hypothesis and rejects or modifies information not consistent with the hypothesis. Officers are highly motivated to solve criminal cases which should exacerbate any bias (O'Brien & Ellsworth, 2006). Through training, we can address some of these issues, but to what extent the instruction will change behavior will vary from officer to officer. Some research also demonstrates that an officer's perception of a situation varies with their experience level (Garner, 2005).

The second problem is the loss of information from the first-person account of a victim/witness to the officer attempting to convert the information into a written police report. Although the officer is trained to take notes to assist in preparing a police report, this only provides limited assistance in capturing the entire contents of the interview. Confirmation bias, where the officer may subconsciously focus on information consistent with their hypothesis of the event (even to the point of excluding or ignoring inconsistent information) also plays a role in this process as well. The subconscious bias introduced at this stage of the criminal investigation will carry forward as the detective assigned to the case adopts the officer's hypothesis (O'Brien & Ellsworth, 2006). Further, the longer an officer waits to write the report, the more details of the incident will be lost.

The third problem is time. A written police report takes a significant amount of time to prepare which is why officers typically wait until at least the end of the investigation and often until the end of their shift to write them. Depending on the complexity of the investigation, the written report can be many pages long, and still the

report can be lacking in a number of important details. The written police report continues to be the standard because a more efficient process has not been developed.

The fourth problem is victim/witness recollection and credibility, which can be hugely important to the investigation and the prosecution. When a case finally reaches trial, several years may have passed. Witness recollections of events have diminished or been tainted by interactions with other witnesses or even media. Having the video interview conducted immediately after an incident will allow juries the opportunity to view and evaluate the credibility of a victim/witness in the same way the officer did.

Many of these problems can be reduced or completely resolved by the transition to video police reporting. The officer would arrive at the scene armed with a high definition video camera (which can be incorporated into a pair of glasses) (<http://taser.com/products/on-officer-video/taser-axon>). The officer will conduct interviews at the scene, capturing the emotion and state of mind of the involved parties for later legal proceedings. With a first responder video interview, more information is captured and less is lost due to the passage of time-related memory degradation or the influence of outside sources. At the conclusion of the investigation, the officer video records his investigation and conclusions. A brief one paragraph written synopsis may also be needed to provide additional information to help the reader decide whether they need to review the video or not. Video statements needed in writing at a later date can be transcribed through the same personnel or contract vendors already being utilized by some agencies. At some point in the future, computer speech to text technology should allow the video to be processed by a computer to produce a written transcription.

Since the beginning of police reporting, the standard method of capturing police activity such as crime, traffic and information reports has been the written police report. Initially handwritten, eventually computers became more prevalent but it was still a written document created from a combination of notes and memory. With the exception of major crime scenes, what is often missing from this process is thorough documentation of what the scene looked like, the demeanor of the victim, the responsiveness of the witnesses and other critical information in the search for truth and justice.

Advantages of Video

In Crimes, Truth and Videotape: Mandatory Recording of Interrogations at the Police Station, Bugden and Isaacson make a compelling case for the requirement that all suspect confessions should be video recorded. Many of the arguments they make for recording suspect interviews are applicable to the case for video recording victim and witness statements by the first responding officers. The authors point out that there is an unspoken bias by judges to automatically give more weight and credibility to the police officer than to the accused. However, Justice Jackson in *Johnson v. United States*, 333U.S. 10 (1948) noted that the police do have both a bias and an investment “in the often competitive enterprise of ferreting out crime.” Since the police do have a stake in the outcome of a criminal arrest and prosecution, they frequently are not independent collectors of information (Bugden, Jr. & Isaacson, 2006). When the credibility of the officer and the defendant are in conflict, a video recording of the interrogation would resolve the discrepancies. In the absence of a video recording, the officer’s recollection and testimony are chosen over the different recollections of the defendant.

Bugden and Isaacson present two different real-life scenarios with two very different outcomes involving the competency of a defendant who confessed to committing a crime. The outcomes were entirely dependent on the presence of a video recording of the interrogation. In *State v. Dutchie*, 969 P.2d at 428 (Utah 1998) *Dutchie* read at the third grade level, had attention deficit hyperactive disorder, developmental expressive language disorder, oppositional defiant disorder and several other psychological disorders. A defense expert could not determine if *Dutchie* could understand the Miranda warning he was given. The court determined *Dutchie* gave a “reliable, trustworthy, and voluntary statement to the detective.” Since the interrogation was not video recorded, the court was not able to observe *Dutchie’s* interactions with the detectives in order to draw its own conclusions on the mental capacity of *Dutchie* (Bugden, Jr. & Isaacson, 2006).

One year later, the court faced a similar situation in *State v. Rettenberger*, 1999 UT 80. *Rettenberger* had attention deficit disorder, below average IQ, and several personality disorders. The two interrogations of eighteen-year-old *Rettenberger* were video recorded. Both the trial court and the Supreme Court were able to view the interrogation and make observations critical to assessing the suspect’s ability to understand what crime he was admitting to have committed. The detectives in the video recorded interview made thirty-six false statements. The Supreme Court reached the following conclusion: “The overwhelming majority of these misrepresentations were not merely ‘half-truths’ but were complete fabrications about testimonial and physical evidence of *Rettenberger’s* guilt.

In sum, although the State, in fact, had no physical evidence implicating Rettenberger, the officer sought to convince Rettenberger that the State had an air-tight case against him.” The court decided many of the issues of the case by quoting directly from the video recorded statement of Rettenberger. In suppressing the incriminating statements made by Rettenberger, the court noted the availability of a video recording of the interview allowed the court to carefully analyze the objective events in the interrogation as well as the subjective characteristics of the defendant which may have allowed him to be more easily manipulated by police into confessing (Bugden, Jr. & Isaacson, 2006).

Witness Credibility

With so much at stake, how can we increase the likelihood eyewitness testimony is the most accurate it can be? Research has indicated several major factors affect the memory of eyewitness statements including stress, fear, anxiety and confusion. Victims are not the only ones subject to these memory impacting stressors. Witnesses experience many of the same stressors as victims (Marsh & Greenberg, 2006). Because a criminal investigation may rely on the testimony of a single witness, it is imperative the courts and juries have access to the most reliable information, which would include video statements taken immediately after the crime occurred. Repeated research studies have demonstrated memory is constantly being altered and reconstructed increasing the importance of the first responder video recorded interview (Colby & Weaver, III, 2006). Additional research by Lindsay, Hagen, Read, Wade & Garry (2004) indicate that memory of distant events are easily altered by outside influences or suggestions. Researchers were able to convince 50% of study participants to falsely recall a ride in a

hot air balloon as a child by showing them an altered photograph of their own face as a child riding in the hot air balloon (Colby & Weaver, III, 2006).

Other memory related research revealed that one week following an event, both participants and observers had nearly the same recall of the event. However, 12 weeks after an event, participants were able to remember more than observers. Other studies have demonstrated observers closer in proximity to the event recall more than observers further away from the event (Colby & Weaver, III, 2006).

Investigative effectiveness relies on the officer's ability to accurately gauge the reliability and credibility of all eyewitnesses. This process must include consideration of the perceptions, beliefs and cognitive abilities of the eyewitness before incorporating eyewitness testimony into the fabric of the investigation. Since credibility of the witnesses is so critical to the direction of the investigation, the investigating officer should clearly state in his conclusions what weight the witnesses statement was given and why. Some of the factors involved in determining witness credibility are: demeanor, cognitive ability to observe, opportunity to perceive, character, bias, prior inconsistent statements, inherent plausibility, corroboration, ability to recollect, education & experience and quantity of detail (Nobel, 2006). By video recording the witness' statement at the scene of the crime, juries will be in a position to make their own judgment on how much value to give the witness' statement. Overall, a witness statement recorded immediately after the event and before their memory can be corrupted by outside influences will have significant probative value later in court.

Personal Video Cameras

Video camera technology is advancing at an incredible rate. In 1964, the first consumer portable video cameras on the commercial market were introduced called the Sony Portapak. The unit consisted of a handheld camera tethered to a portable VCR. Smaller versions of VHS tape and smaller electronics lightened the camera and combined it into one unit. New formats of video providing different capabilities became available, giving the consumer even greater mobility and versatility to capture events on tape in varying lighting conditions. In the current era of digital video, recordings can be stored on a wide variety of digital media and transferred to computers or other storage devices for permanent retention (Garrett, 2008).



Law enforcement recognized the advantages of digital video recording and began to incorporate it into their standard operating procedures. Narcotics units purchased and installed covert cameras to monitor for criminal activity. Interview rooms were equipped with covert cameras and recording equipment to document suspects' statements. Police cars were outfitted with dash mounted video cameras, which have also evolved from the larger VHS format to the far more manageable digital media. Video is now uploaded wirelessly to computer servers inside the Police Departments for retention and review (Careless, 2008). Crime Scene Investigators have also traded film cameras for the higher quality and lower cost of digital photography for crime scene photos.

The next step to incorporating video technology into law enforcement standard operating procedures is the development of the miniature personal video camera. Several companies are now producing personal video cameras that can be worn by the officer and operate hands-free. British police have head-mounted video cameras to record crowds at

sporting events and other high profile activities. According to Tony McNulty, the Minister of State for Security “By providing dramatic footage of victims, suspects and witnesses, judges and jurors will be able to see and hear the incident through the eyes and ears of the officer at the scene (Associated Press, 2007).”

Video recorded interviews of domestic violence victims in Britain have been credited by prosecutors with encouraging them to press charges against their abuser. However, Ranjit Kaur, Director of Rights of Women, is not convinced the video footage of the interview will be enough to obtain a conviction (Associated Press, 2007). The Association of Chief Police Officers, an independent group of senior police officials in England, Wales and Northern Ireland, expressed concern that courts may come to expect everything an officer does to have video recorded evidence for support. “The introduction of personal digital recording for police officers and staff brings benefits and risk,” read an association statement. “We need to guard against creating an expectation that all police activity ought to be supported by the use of digital recording technology (Associated Press, 2007).” Agencies will have to decide when and under what circumstances a patrol officer must use their personal video recorders.

The use of a personal video recorder may initially increase the workload of a patrol officer until the technology matures to the point it can operate effectively with little to no input from the user. Both Ben Ward of Human Rights Watch and Barry Steinhardt, Director of the American Civil Liberties Union’s Technology and Liberty Program, expressed concern with the ubiquitous presence of video recording, and the potential for abuse. However, Mr. Steinhardt acknowledged the potential of the video recording

devices to prevent police misconduct because of the officers awareness their actions and statements are being recorded (Associated Press, 2007).

Recently, Taser International has entered the personal video recording market with its Axon Video System designed for law enforcement officers. San Jose was the first law enforcement agency to test this camera system. Taser International's Chairman Tom Smith believes the cameras will be effectively used to exonerate officers accused of misconduct, by video recording the entire incident from beginning to end. A 2002 study conducted by the International Association of Chiefs of Police (IACP) revealed that 93% of citizen's complaints were resolved in the officer's favor because of the presence of an in-car video camera system (Community Oriented Policing Services, Department of Justice, 2005).



Orange County Supervising District Attorney Rosanne Froeberg reviewed and commented on any potential problems associated with conducting video recorded interviews of victims and witnesses at the crime scene. Overall, she was supportive of the project and saw more advantages than disadvantages. Officers would need supplemental training on interview techniques. Because of the power of the video recorded interview, defense attorneys would likely focus on the interview techniques of the investigation officer instead of the content of the interview. A particular area of concern for D.A. Froeberg was ensuring the interviewing officer asked open-ended questions and did not lead the victim(s) and/or witness(es) to a desired response. Any mistakes made by the investigating patrol officer would be subjected to intense scrutiny

by defense attorneys. In the end, D.A. Froeberg believed the video recording of victims and witnesses at the scene will result in more complete and comprehensive investigations of criminal cases. The addition of video recording into responding officer's standard procedures may result in more early court resolution of criminal cases.

[Burlington Police Officer deploying personal video recorder](#) [Video Clip]

A Scenario to Replace Written Police Reports with Video Police Reports

In our video-standard future, an Officer conducts his interview of the victim as well as a witness to the crime. The video interview is conducted with a small camera hung around the officer's neck and recorded directly onto the device. The Officer retrieves a small personal computer from his shirt pocket and using the menu selects the desired crime script from a list of many of the most common incidents a police officer handles. The script allows him to ask the victim a series of questions prepared ahead of time by subject matter experts. This ensures the officer asks all of the relevant questions related to the crime he is investigating. The officer still has the discretion to ask additional questions or clarifying questions, but must cover the topics included on the script.

The scripts are critical components of video police reporting. With defense attorneys, District Attorneys and juries all viewing officers' video interviews, it is critical the officers ask the victims and witnesses all of the necessary questions required for later prosecution. The development of the predesigned script for each crime type will ensure the officer asks all of the critical questions necessary to establish the elements and venue of the crime.

The Officer returned to the Police Department where he video records his investigation. The Officer describes in his video self-interview how he dusted for fingerprints and swabbed the area for DNA. The video recorded statements of the victim and witness and the investigation by the Officer are transmitted to a private contract service that specializes in creating transcripts from video recorded statements. Meanwhile, the Officer creates the report face page which he turns into Records along with a DVD of his interviews and investigation. The transcripts of the video recorded statements are completed and returned to the Officer within three to four hours for his review. He attaches those to his police report and submits the entire package to the Detective Bureau for follow up. Using this procedure, the first-person interviews of the victims and witnesses are memorialized for later review in court. The Officer has conducted a thorough investigation, but one that requires less time to complete than the current practice of completing a written police report.

Conclusion

Criminal cases rely heavily on the testimony of eyewitnesses. Literature reveals, however, the reliability of the eyewitness testimony is impacted by the circumstances surrounding the observation, their capacity to observe and recall, the bias they infuse into the situation and a variety of other important factors. The investigating officer immediately begins to assess credibility while determining how much weight to assign a statement. At the conclusion of the interview, the officer documents the statements by writing a police report summarizing the information received. But the officer is also subject to the same factors as witnesses and victims. The officer is affected by stress, fatigue, complacency, and biases, all factors which can influence the accuracy of his

written report. Assessing the credibility of the eyewitness is heavily reliant on the skills of the investigating officer since the initial interview is usually not video recorded. The research demonstrates that within a short period of time, the witness' memory of the event begins to fade and become corrupted by outside influences. By the time the case reaches court, important details of the event may have been forgotten or been subjected to these outside influences. As the research indicates, people can be convinced they participated in an event, even if they did not, just by showing them an altered picture of themselves participating in it. Similarly, as witnesses interact with other witnesses or victims, memories of the occurrence can become influenced by other participants' recollections.

Personal video recorders, carried by the first responders, will capture the scene and allow investigators, district attorneys, defense attorneys, judges and juries to view interviews of victims and witnesses and to assess their credibility. Criminal cases won't be reliant on the skills and memory of the investigating officer to adequately document the entire investigation. Rather than summarize the interview for their police report, the investigating officer can attach the video interview file to the report. The officer would attach a face page containing statistical data, along with a video recording of his investigation and conclusion. With training, patrol officer's investigations will become more thorough and complete. Criminal suspects will have much more information available to them in court increasing the likelihood the guilty will be convicted and the innocent exonerated.

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