

INVESTIGATIONS

POLICE LINE DO NOT CROSS POLICE LINE DO NOT CROSS POLICE

Chief Joel F. Shults, Ed.D

The National Police Association's free Law Enforcement education series is designed for home school, classroom, or independent learning. As part of our nonprofit educational mission, it prepares you for careers in public safety. This series is authored by [Chief Joel F. Shults, Ed.D.](#)

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You Have the Right to Remain Silent

One of the guilty pleasures in my early days working in the same college town where I was a young officer was arresting criminal justice students. There was something about having taken a few classes that made many of them have the confidence of a seasoned attorney. More than one would smugly state that any charges will be dropped because I didn't read them their rights. Surprise! I don't have to!

I have nothing against criminal justice students, having spent many years as one myself and many years teaching since. The problem was that many of these young citizens learned more from television and movies than anywhere else, something they had in common with most Americans.

The myth that any contact or arrest by a police officer must be immediately accompanied by an advisement of their Constitutional rights per Miranda comes from many a dramatic scene where these rights are being recited in the middle of a struggle with a fictional suspect on our favorite cop show. To be sure, many officers will spontaneously recite the Miranda warning as soon as practical to avoid being accused of getting an unlawful confession, but it isn't necessary unless it meets the requirement that arose from the Miranda case (*Miranda v. Arizona*, 384 U.S. 436 (1966)), which was part of a cluster of cases that reached the U.S. Supreme Court regarding the 5th and 6th amendments.

The era of the Supreme Court under Chief Justice Earl Warren entertained cases that expanded the understanding of Constitutional rights as the 14th Amendment was finally being applied in criminal justice matters. The core issue of these cases was to keep law enforcement from coercing confessions from suspects while they were kept from getting legal counsel. Just a few years earlier, the Court had decided in *Gideon V. Wainwright* that the right to an attorney meant little unless the government provided such counsel to those who could not afford one.

The *Miranda* ruling did not precisely prescribe what the warning would look like but did give instructions on what such warnings must contain. The standard *Miranda* rights advisement evolved and was endorsed in subsequent cases.

The insistence of the Founders on prohibiting government abuse of its citizens was based on their knowledge of history. Coerced confessions through torture was common in the world, as were secret trials and summary punishment. In throwing off the oppression of their European predecessors, the authors of the Bill of Rights wanted to ensure that persons accused of crimes would be free from torture, had public trials, the oversight of objective magistrates, and access to advocates on their behalf to ensure due process and counter the power of the government. The 5th and 6th Amendments addressed these vital concerns, along with rules for searches and due process.

These Warren era court decisions changed law enforcement that had long operated free from federal

concerns. The Exclusionary Rule was now employed and ruled that evidence that violated Constitutional standards could no longer be used at trial. These changes gave rise to claims that criminals were being let go on legal technicalities and eventually gave rise to a new emphasis on victim's rights as well.

The new caution exercised by police officers in protecting suspect rights and ensuring that evidence collected would be useable at trial resulted in the common portrayal of police immediately reading from the ubiquitous Miranda cards on every arrest (we are taught Some departments were so cautious that warnings were given even to witnesses. It became a standard component of dramatic media portrayals of suspects being told their rights between blows in a fight or while applying handcuffs.

In real life, Miranda applies only to persons who are in custody (not free to leave), and to questions that are guilt-seeking. It does not include general on the scene inquiries, answers to standard booking questions, or spontaneous voluntary statements. My criminal justice arrestees don't get a free pass just because I didn't whip out the card. Refer to your Intro to Justice class,, not TV cop shows.

Digital Detectives Exposing Abusers

The headlines are all too common. Oklahoma, March 2023 “Extremely disturbing’: 5 men charged in child predator sting using decoys posing as 14 and 15 year olds”, Las Vegas, June 2023 “14 suspects arrested in undercover child sex predator sting”, San Francisco, June 2023 “ Seven men were arrested during a sting operation launched by the Contra Costa County Internet Crimes Against Children task force last week”, Oregon, April 2023 6 men arrested in Washington County child predator sting”, Scottsdale, AZ June 2023 “Dozens arrested in the Valley after online predator sting operation”, Hawaii, March 2023 “13 Sexual Predators in Hawaii Caught in Sting Operation”. The list could go on. And on.

Detectives find themselves knee-deep in a lot of places looking for clues to solve crimes. It could be a fugitive in the broom closet, a body buried in the backyard, or a receipt in the dumpster. Or it could be online playing the part of a 14-year-old girl being propositioned by a man somewhere who should know better than to think there are any secrets on the internet.

It isn’t very difficult to get hit on if you look like a girl in a chat or on social media. Boys are victims, too as well as female perpetrators, but men attempting to lure underage girls is the primary finding of investigators. Making a case for internet luring or attempted sexual assault of a minor is not quite so easy. As with any “sting” operation, law enforcement must ensure that the suspect is not lured into committing an offense that they

might not otherwise commit. This would lead to a defense claim of entrapment that can result in a lost criminal case. The suspect must be fully aware and acknowledge that they believe their target is a minor, and must be the first to suggest sexual activity.

Internet predator investigations can be done with any size agency, although the time it takes to establish the connection with a suspect, establishing their criminal intent and a step in furtherance of their crime, setting up the capture, and documenting the digital evidence can be daunting. Larger agencies have dedicated units that deal with all sorts of internet investigations that include catching predators.

A frequent method is using a multi-agency team involving federal agencies. Task force operations with monikers like the San Francisco area's Operation Spring Cleaning, Hawaii's Operation Keiki Shield, Florida's Operation C.A.K.E. (Cops Against Kid Exploitation), and Fresno, CA's Operation H.O.O.K. (Hands Off Our Kids), and Salt Lake City's All-Star Weekend predator roundup Operation Technical Foul are examples of reaching across boundaries.

In the recent Las Vegas arrests a joint task force included the FBI, Henderson Police, Homeland Security Investigations, North Las Vegas Police, U.S. Air Force Office of Special Investigation, and the Nevada Attorney General's office. Federal help can be essential because the internet knows no state boundaries. Predators can be more than willing to travel long distances when they have a chance to fulfill their fantasy of sex with a child. Some agencies use young-

looking female officers to do real-time video with suspects or to be in the rendezvous location for the arrest. Others use the distribution of child porn or laws against internet luring to make a case even if a physical meeting is not attempted.

As with many criminal endeavors, particularly those associated with vice, the suspects range from exactly who one might picture, to a perfectly respectable person to the world outside of the presumed anonymity of the internet. One Oregon suspect was a U.S. Forest Service employee who showed up in an agency fire truck to meet an underage girl, another was a music director at a church. Some are already registered sex offenders, but most are not. Most also continue their conversations with undercover officers and include pornographic photos along with their sexually explicit chats.

Officers who work with exploited children in internet investigations and other child exploitation units need breaks and ongoing mental health support to deal with the deplorable things they see and hear. The work is challenging, but of course, vital. Agent Edward Arias of Hawaii's Attorney General's Office says "I want to say to all the predators and you think you're talking to a child you're probably talking to one of us. So I want to put the fear of God in them." In addition to catching predators, these operations may make others decide the risk is not worth the cost.

Small Number of Offenders Magnify Crime

Like a white dot on a field of black, our attention is inevitably drawn to the outlier, the loudest, the brightest flash, and the thing that creates the most fear and unknown. We are built like that because noticing things that are out of place has survival value to our primitive brain parts.

Some years ago I was asked to serve as a judge for a writing contest for middle schoolers submitting papers on school bus safety. A disturbing majority of young writers included the phrase “millions of students are killed or injured in bus accidents every year”. The National Traffic Highway Safety Administration reports that “The school bus is the safest vehicle on the road—your child is much safer taking a bus to and from school than traveling by car. Although four to six school-age children die each year on school transportation vehicles, that’s less than one percent of all traffic fatalities nationwide.” We are so used to hyperbole that we have infected our children with a shadow of constant dangers.

I had a colleague who, during the heyday of missing children and stranger danger awareness, had taught his children to simply scream and run anytime they encountered a stranger. We lost track of each other as our careers diverged, but I always wondered how those poor kids turned out.

School shooters rivet our attention and create fear. The images and horror are justifiable fodder for worry. But their rarity is seldom cited among dramatic news coverage of each event. There are over 130,930 K-12 schools. School shootings happened at 34 of them in 2021 with 15 deaths and 53 injuries. Too many, yes. Too tragic, yes. Coming to your school? Less likely than a lightning strike to your head.

In the same way, researchers find that a small percentage of criminal offenders are responsible for a disproportionate amount of crime. Allowing our justice system to detect, prosecute, and immobilize these chronic criminals can have a huge impact on the crime rate.

There is plenty of research on both humans and animals that shows the physical changes in our body as we look for and prepare for something to go wrong. The object of our attention is literally magnified in our imagination as it is in our eyes and other senses. Our visual focus zeros in on that thing and narrows our vision to exclude other sensory inputs. It is what we ordinarily call tunnel vision.

Our other senses, too, have the capacity to enlarge a sensation whether by sight, touch, taste, smell, or hearing. If we are annoyed by snoring, chewing, or a dog barking, those sounds begin to dominate our consciousness. Our ears tingle while tip-toeing through a dark abandoned house and amplify every creak of the floor. The touch of our finger on a tiny splinter feels like there is a railroad tie under our skin.

Even if not in full fight or flight panic mode, our bodies undergo subtle changes as a little squeeze of adrenaline gets us ready for trouble. Our thinking process shifts from quite rational to edgy with possible danger as the neurons for fear fire more frequently and begins taking over our thoughts. When we hear the phrase “living in fear”, it can be very true.

There is statistical evidence of this on a cumulative social level. When measuring crime, researchers ask not only whether persons have been actual victims, but they ask how safe people feel. Two trends emerge. One is that the fear of crime is never at the same level of actual crime. People are generally more fearful of being a victim of crime than the statistical probability of victimization would predict. Conversely, people tend to report that their block or neighborhood is safer than surrounding neighborhoods. After all, don't we hear residents interviewed by local reporters after some event saying “it's usually pretty quiet”?

The only thing more dangerous than awareness of risk is the denial of risk. This, too, is the brain's over-reaction to information, pushing back against the danger-finding brain to cover the discomfort that caution causes. By focusing on the rarity of unexpected violence, this article in no way encourages disregarding their reality. For this reason, we look to our friends and neighbors for support, remain vigilant, and support our local law enforcement as they engage in prevention and response to violence.

The Public's Fascination with Homicide

If there is one area of law enforcement that retains the respect and fascination of the public it is the murder detective. Americans are fascinated by murder. The harder to solve, the better. The most incongruous the setting, the better. The prettier the victim, the smaller the town, and the more violent or bizarre the better.

I gave up trying to count the number of true crime television shows. One can't swing a dead cat (cause of death undetermined) without finding one. Sure, there are shows about big robberies, con games, organized crime, and other kinds of crime and mayhem, but murder is the big winner. Removing sports from the equation, crime shows are a third of the top fifty shows on network television. Toss in streaming services and small networks and the opportunity to watch homicide cases, fictional or historical, is endless.

Television violence was examined as a public health concern was examined in a report from the U.S. Surgeon General in 1972, and for a while the violence of video games gained attention and blame for murder and mass shootings, but the ubiquity of crime TV seems to have overshadowed concern about its effect on society.

Keep in mind that in 1972 it was network television that commanded the public's attention. The violence consisted largely of suggestion imagery. Autopsy scenes were not realistic or graphic. Cowboys and Indians died bloodlessly, although bar fights featured busted lips and fake blood. It wasn't long until cable television, far from

the content control of FCC regulators, created a demand for realism. Whereas Gunsmoke might show a shooting victim clutching their chest over a wound, CSI followed the bullet closeup as it traveled into the body splitting flesh and bone.

During this writer's experience as a death investigator, witnesses and survivors were not only bystanders to tragedy, they were armchair detectives anxious to offer theories and point out evidence. Police and prosecutors have noted what is referred to as the "CSI effect" among jurors who now expect DNA and microscopic evidence in every case regardless of its availability or relevance.

What does this massive fandom of murder shows mean? It could mean the devaluing of human life, akin to the spectator sport of the Roman battles to the death in the Colosseum. It could mean just the opposite, that we are appalled at the loss of life and want to see justice win. It might be that in immersing ourselves in death stories we are confronting our uncertainty about our own mortality, affirming the relief that we are still alive and these things happen to other people.

In terms of public attitudes toward the police, the national conscience seems to celebrate the work of investigators. That respect is well-deserved. Every law enforcement assignment has its challenges, but the detective's lot has its own unique hurdles. Their hours are unpredictable. The pressure and emotional strain are palpable. Their fear of missing a detail or clue that would have solved the case or won in court is ever-present. Televised re-creations of their efforts portray them as tireless and dedicated. That bodes well for the

reputation of what is often considered the elite epitome of police work.

On the other hand both the reality shows, re-enactment shows, and fictional stories set up some unrealistic expectations. With a notable (30%) increase in homicides across the country, concentrated in urban areas and often in those areas with less support for law enforcement, the unsolved murder rate hovers at around 50%. Fortunately, for public confidence, the murders on television are almost always solved. No producer wants to leave the viewer unsatisfied about justice.

The public has grown to expect adequate resources to be focused on solving murders. They expect the FBI and state investigative agencies to swarm to the case, bringing vans with highly technical crime scene processing tools. This may be the case, but ask any homicide detective if they always have the staff and resources to do the kind of investigation they really want, and find out – especially in those cities where patrol officer shortages are so severe that detectives are pulled from their duties to return to uniform patrol.

Let's be optimistic and say that these shows increase a viewer's appreciation for life and for those who speak for the ones who have been silenced by violence. And don't defund detectives.

Police Reports: Simultaneously Mundane and Critical

No candidate for a police job answers the question of why they want to become a law enforcement officer by saying they really love filling out forms and writing reports. The satisfaction that comes from catching bad guys, intervening in a crisis, and helping the helpless is the meat and potatoes of job satisfaction. The downside of all of that adventure is that once the action has calmed down it's back to the station to put it all down on paper.

Nothing is more mundane to police officers than tapping out their reports after an incident. Even so, there are few things of greater long-term significance. It is akin to giving birth to a story that can outlive the writer. And like any offspring, sometimes they can be troublesome.

The first stop is the supervisor's review. Is the grammar correct? Are all persons' identifying information provided? Is the narrative clear? Do all the times and dates align? Are the suggested charges appropriate and supported in the report? Were the available leads followed up and identified? This is also the first place for potential manipulation. Do we really want this classified as a robbery when it could just be a larceny? Is it a larceny or maybe just a lost property? If five vehicles were vandalized is that five incidents or one continuing incident? All of this matters because the Mayor may want to show less crime during an election year. Meanwhile, the Chief may want to emphasize higher

crime stats to justify her new budget requests. The sergeant may want to show that his sector is successfully intervening in gang activity. Regardless of motive, these classifications are always a judgment call.

Now that the supervisor becomes part-owner, they will either send it back for corrections or give it a green light for its next stops. Back in the days of carbon copies, this is where the original report would begin its distribution. With the nearly universal use of report-writing software, the distribution is more convenient and instantaneous. The first copy will go into the giant repository known universally as “the files”. There it may die, but not before all of the names and addresses in the report have been matched with the files. Perhaps there is a related case, a chronic offender, a repeat victim, or a connection to an unsolved case.

If the case needs more development the report will go to the investigators. Depending on their workload, they may pursue it, refer it to the prosecutor as is, or lay it aside as low priority or for no further action to be taken. It is here that the patrol officer’s work can pay off in solving a case. If a case is well written, a detective may have more confidence in pursuing it.

To prove a crime, every element of the crime must be proven beyond a reasonable doubt in court. That means that an accused’s intent must be proven, that all possible defenses be disproven, and that all behavior meets the definitions in the statute. If a certain amount of force makes the difference between a misdemeanor assault and a felony, it must be proven. If a weapon is part of the charge, its existence and use must be proven. Was the

wound from a knife or from a fall against the table edge during the fight? Was the blow struck in self-defense? Was it intentional or accidental? The detective will want to make the case as definitive as possible.

While the next step for our report may be the prosecutor's office, other people are also asking for it. The media will demand to see it. Insurance companies will want a copy to verify a claim. Researchers will want to examine the report to gather data. A probation officer might be notified that a client was involved in an incident that needs attention.

The prosecutor will read the report through the eyes of the defense attorney. Where is the case weak? What could be followed up and nailed down? How credible are the witnesses? Is this officer's report consistent with reports from other officers and witnesses at the scene? Is it consistent with the body-worn camera video? Were the statements from suspects obtained lawfully after a warning of their Constitutional rights while in custody? Was the evidence collected properly?

If the case goes to successful prosecution, the report once again is reviewed for the pre-sentence investigation. If a suspect is imprisoned, the report may be used to determine their security classification, and perhaps again years later during a parole hearing.

In cold cases, a report might be pulled from the file decades after the officer wrote it. Only then will the skill of the report writer be clear. Only by this report will the event be brought to life accurately to perhaps bring

someone to a long-awaited justice. The most boring facet of police work can become the most valuable.

The Manifesto: Evidence and Educational Opportunity

The mysteries of homicidal attackers in public and sacred spaces have garnered attention and study. From the local school's threat assessment team to the FBI and Secret Service, researchers and psychologists have attempted to draft a profile of those who threaten our safety and sense of peace and predictability.

Such a profile is still elusive. Although the news seems to announce a new shooting event daily, the occurrences are rare enough that studying the attackers and slicing and dicing their traits for commonality has yet to yield an answer in the quest for predicting who will be the next mass killer.

The science of behavioral profiling boils down to the science of statistics. When we see a pattern or patterns repeated, we can begin to chart probabilities. But as anyone who has baked a cake knows, there are so many variables that getting the exact same product every time is never completely in the baker's control. We also know that concurrence is not causation. If we find in retrospect that most mass killers had oatmeal for breakfast, baking oatmeal illegal is not likely to reduce murders.

So what can be done to identify potential killers and increase the probability of intervening before they act? While there is emphatically no profile of attackers or their targets, there are some commonalities that safety

experts can learn from. Two of these are that there is a planning phase for many potential active shooters and a motivation that evokes a desire to carry out their destructive plans. Those two elements can often be found in a plotter's manifesto.

The classic definition of a manifesto, according to Webster, is "a written statement declaring publicly the intentions, motives, or views of its issuer." That sounds innocuous enough, but the connotation in common use is a declaration of something sinister. Recent revelations of vile manifestos are that of Connor Sturgeon, the man who fatally shot five coworkers at a Louisville, Kentucky bank in April, and critically injured a police officer who was shot in the head. Another was that of the diary of Manuel "Tortuguita" Teran, an activist who died after exchanging fire with police near the site of the planned public safety training center near Atlanta, Georgia.

Robert Card the 40-year-old gunman in the mass shootings that killed 18 people and injured 13 others in Lewiston, Maine left no known lengthy document but did prepare a note giving some final instructions to a loved one. Card was later found dead from a self-inflicted gunshot wound.

Retired police lieutenant Dan Marcou, a nationally recognized police tactics trainer, cites as one of many reasons to study the diaries, journals, and manifestos of plotters and killers is to serve as a training aid. Another is for use in evidence of a surviving plotter or killer, to prove intent and forethought. Therefore, the release

and analysis of these documents is critical to the prevention of future tragedies.

Manifestos can often be found on social media platforms. Authorities in Virginia were alerted this past September to disturbing Instagram posts by Rui Jiang showing potentially violent intentions toward a church in Haymarket, VA. Officers attempted to contact Jiang at his residence on a Sunday morning. When they were unable to find him, police began patrolling the Park Valley Church as services were about to begin. They found Jiang had entered the church through a side door, armed with a loaded gun and extra ammunition. “This was a thwarted diabolical plot to kill churchgoers in Haymarket, Virginia — and local law enforcement stopped it,” Chief Kevin Davis of the Fairfax County Police Department told reporters.

Finding manifestos of plotters and studying those left behind by active shooters is an important piece of the puzzle in understanding prevention and response to mass killers.

Catching Killers Before They Strike: The Latest Secret Service Report

The search for the elusive predictive profile of active killers continues. The U.S. Secret Service recently published "[Mass Attacks in Public Spaces](#)" outlining statistics from attacks in the U.S. in 2018. As the world's foremost experts on public violence, the United States Secret Service National Threat Assessment Center (NTAC) once again announces there is no profile of such attackers. While there is no template for these violent offenders, there are numbers and trends of interest.

"Between January and December 2018, 27 incidents of mass attacks – in which three or more persons were harmed – were carried out in public spaces within the United States. In total, 91 people were killed and 107 more were injured in locations where people should feel safe, including workplaces, schools, and other public areas" according to NTAC. Schools, of course, are of the most public and professional interest but comprise only three such attacks out of the 27, representing 29 of the 91 fatalities (31%) and 40 of the 107 injuries (37%). The most common places for a MAPS assault are commercial spaces, representing 20 of the 27 events.

For planning purposes, law enforcement tacticians and trainers working with the community to prepare for possible attacks can relate factors that are more than 50% likely in an attack.

- 1) The attack will last fewer than 5 minutes

- 2) The attacker will use firearms
- 3) The attack will happen between 7 in the morning and 3 in the afternoon on a Wednesday or Thursday
- 4) The attacker will end the assault on their own by leaving or killing themselves
- 5) The attacker has a grievance, mental illness, previous law enforcement attention, has expressed a threat or concerning communication, and suffered a recent stressor event
- 6) Friends, family, or neighbors have expressed concern for the attacker's well being
- 7) Victims will be targeted randomly
- 8) The attacker will be male
- 9) The attack will be at a place of business

The most important fact to relate to potential targets is that the cumulative data from this 2018 report is not an exact match with the [2017 report](#). In other words, not only is every incident an anomaly that will defy the odds in various ways, but the data itself fails, once again, to be predictive.

The exceptions to the 50% chances above are many. The reader will notice the absence of the generic term "active shooter". Vehicles were used in several MAPS assaults in 2018 and 2017, and edged weapons were

used in many of the 2017 attacks. Over a third of the attacks will last more than 5 minutes. Police ended 22% of the attacks, firearms malfunction ended 15%, and bystander intervention ended 7% of MAPS events. Depending on the timely arrival and efficient action of law enforcement is not a sufficient strategy for dealing with these mass assaults.

Attacks can happen any time of day, any day of the week, and any month of the year. Interestingly, December was left alone by 2017 and 2018 attackers. The diversity of 2018 attackers defies the young white male stereotype.

Those who propose legislative remedies to mass attacks are frustrated by the randomness of attacker characteristics. Or, more accurately, the actual impact of legislated remedies is frustrated in the area of gun legislation and mental health. Of the 24 killers who used firearms, 10 possessed the weapons unlawfully, including 2 minors. Type of long gun, type of bullet, and weapon capacity surprisingly does not center on the infamous AR 15 or AK 47 alone. In a separate [analysis](#) of twelve 2018 firearms related mass killings (axios.com) only the Parkland attacker used exclusively an AR15. All other events cited on the axios.com chart showed the attacker in possession of more than one weapon, or a shotgun or handgun alone.

Distress and mental health issues were reported to have been present in examination of the 2018 killers based on testimony of those who knew them. Even so, only 44% had actual an actual diagnosis and prior treatment. In any given year, according to the [National](#)

[Institute of Mental Health](#), 20% of Americans show indicators of some level of mental illness.

Philosophers and mathematicians recognize limitations to predictability, commonly known as [Chaos Theory](#). “Small differences in the initial conditions may generate very large differences in the final phenomena. A small error in the former will lead to an enormous error in the latter. Prediction then becomes impossible, and we have a random phenomenon.” A planner ignoring this reality is subject to preparing for the wrong thing.

The apparent randomness of mass violence events doesn't mean that communities are powerless to intervene. The Secret Service advocates a comprehensive threat assessment team in communities and schools in order to recognize and respond effectively to persons and situations that may portend violence. “While not every act of violence will be prevented, this report indicates that targeted violence may be preventable, if appropriate systems are in place to identify concerning behaviors, gather information to assess the risk of violence, and utilize community resources to mitigate the risk.”

Gathering Information for Investigations

Facial recognition, fake cell tower interception, surveillance flights, and license plate readers all have two things in common. They solve crimes and they cause privacy concerns. When does good investigative police work cross the line to an invasion of privacy? Do criminals have the right to privacy? Should citizens give up their privacy for the sake of putting killers and drug dealers in jail? Those questions are still being asked and answered.

Americans have a history of being a little paranoid about being monitored. It smacks of the dystopian world of George Orwell's 1984, where no voice goes unheard and no movement goes untraced. As technology evolved, consumers discovered that it wasn't the government who was collecting data and listening in, it was businesses that wanted your information. And, for the most part, the citizenry is fine with that. Sure, they find it annoying that a conversation in the living room about a new fishing lure seems to magically generate Facebook ads about fishing lures, but it is a mere curiosity rather than an alarming event.

When cell phone cameras became ubiquitous, the filming of fights, disputes, and odd people shopping at Walmart joined the internet universe along with the police doing their work and ending up on YouTube, usually with a fake story attached. Adding to that are doorbell cameras and perimeter surveillance cameras that are on nearly a third of private residences and no longer just the wealthy. Don't expect to slip and fall or

be chased by a bee without the ensuing hilarity being posted for millions to watch. Some homeowners have voluntarily allowed police access to their home surveillance systems in real-time as a crime-fighting tool.

Are police in on the surveillance action? You bet they are. Armed with court orders, law enforcement can trace cell phone calls and plot the travel of their owners, or tag a vehicle with a GPS tracking device. Drones are regulated through the FAA regarding what airspace they may traverse. Aerial surveillance is not new, and courts have ruled on what can be considered in plain view observation. What can be observed by the naked eye in lawfully navigable air space may be used as evidence to obtain a search warrant. A case in Baltimore, however, stopped a police program of flying a fixed-wing aircraft over the city taking photos as unconstitutional.

Automatic license plate readers (ALPR) are considered a threat to privacy by civil liberties activists, but there are protective rules in place in most law enforcement agencies. The ALPR cameras mounted on police cars or stationary posts only catalog plate numbers. There is no alert unless a number matches one that is listed as stolen or wanted in connection with an investigation. The system does not automatically show the owner information, and the data are stored only for a limited time before being purged. Investigators can go back to stored images when looking for a suspect vehicle. The fears of “big brother” spotting an innocent person’s vehicle to see if they were at church, or a porn shop, or at their mistress’ house persist. ALPRs have become a

very useful tool for law enforcement with minimal impact on personal privacy.

Police agencies have been criticized for keeping gang intelligence files that identify known and suspected gang members as unlawful profiling, but those files can help solve crime just like the old-fashioned mug shot file. Many agencies have stopped posing mug shot photos of arrestees or allowing newspapers to routinely publish arrest photos.

It is technically possible for police body cam video to compare facial images with driver's license photos to identify wanted persons. Police can monitor neighborhoods for the sounds of gunshots and locate their origin with triangulation. As cities grapple with violent crime, the use of technology can help locate and prosecute the bad guys. The question is whether the other 98% of the population is willing to be surveilled to some degree or another for that to happen.

The Drug War We Can't Stop Fighting

Drug laws have been all over the map since the first federal legislation started regulating them. A 1912 international agreement obligated all participating nations to regulate opium traffic within their borders. The U.S. Congress passed the 1914 Harrison Narcotic Act to meet the treaty obligations. Intended to be a regulatory and taxing process, the act evolved into a prohibition in line with the evolution of other federal drug laws to follow.

According to the Federal Office of Justice Programs, "The law and its stringent application had little impact on opium use. Congress' response in 1922 was to increase the maximum penalty for violating the law. The Marijuana Tax Act was passed in 1937, and it failed to curb marijuana use; penalties were increased. Antiamphetamine laws have also been enacted with similar results. Law enforcement has sought to reduce drug abuse by arresting users, pushers, and persons high up in drug trafficking networks. It has sought to interdict drugs at U.S. borders and curb the production of illegal drugs abroad. Although some of the efforts have apparently been temporarily effective, adjustments by drug networks soon bring the supply back to previous levels." The Volstead Act, taking effect in 1920 prohibiting the manufacture and possession of alcohol was part of the wave of prohibition.

Current thinking about the drug problem varies from harsh penalties for fentanyl possession in Colorado to get out of jail free cards for drug offenses in Washington

state. Marijuana has evolved from felony possession of low-quality weed in the 70s to the complete legalization of new highly potent marijuana in many states in recent years.

While these laws and policies fluctuate drug use has increased and overdose deaths exceed 100,000 a year. Drugged driving is part of the increase in car crash fatalities in recent years. The US border with Mexico is a political hot potato, but one thing that is not in dispute is that tons and tons of dangerous drugs are fueling the supply of cheap and deadly illegal drugs in the deluge of those crossing the border.

One of the theories in promoting legalized marijuana is that the illegal underground market for the drug would disappear once users found that they could walk up to a counter and buy it like a pack of cigarettes or a bottle of beer. The advantage of black-market marijuana is its price. Commercial marijuana is heavily taxed and regulated and requires real estate and operational costs, including security and cash handling.

One way that illicit marijuana marketers save money is by using government land to grow their product. This has caused multiple issues for foresters and those law enforcement entities whose jurisdiction is our state and national lands. A recent article in the Grand Junction, Colorado Daily Sentinel newspaper chronicles the devastating environmental effects of illegal grows on public land.

Safety concerns around illicit grows are for both law enforcement and civilians using the land recreationally.

Grows have been known to be guarded by armed workers associated with criminal cartels, often accompanied by booby traps on perimeters of the operation.

Cutting of native trees and plants, application of herbicides, and diversion of water are considered more prosecutable as environmental crimes than the production of marijuana itself. In one investigation on land under the jurisdiction of the Bureau of Land Management which has its own criminal investigators, thousands of marijuana plants were discovered in just one of five grow sites. The Sentinel article reports that “BLM spokesman Eric Coulter said staff found pesticides, herbicides and rodenticides at the Rifle site, and about 2,100 trees and more than 3,800 shrubs were removed to make way for the grows. Soils were disturbed along with the area’s hydrology, and large amounts of solid waste were found, including trash and growing equipment supplies that included more than 47,000 feet of poly irrigation line.” The estimated value of the production on all five sites has an estimated street value of \$7.5 million.

Mitigation costs at these remote and high elevation sites involved helicopter use to remove waste products. One site required an estimated \$150,000 cost in cleanup, not to mention the costs of complex and technical investigation spanning several states, and agencies. Restitution is unlikely.

Inconsistency in legislation, enforcement, and public opinion regarding harmful drugs has emboldened those who profit from addiction and misery. The toll on our

environment, our highways, and workplaces have not been resolved by the permissive soft touch of the law.

Cops Not Allowed to See the Critical Evidence They've Collected

One of the controversies that doesn't make sense to the average observer is the question of whether police officers should be able to review their own body camera video before writing their report. The alleged fear is that officers will be tainted by viewing their video. Really?

Should physicians view patient x-rays before making a diagnosis? Should carpenters be able to review the blueprint before starting to build an apartment complex? Can Perry Mason ask the court reporter to read back testimony?

One of the many myths about police officers and their superpowers is that they have abilities far beyond the mere mortal. Their powers of observation must be able to remember what was happening for the whole time an incident played out with 360-degree vision and 100% recall. The reality of human brain function is that persons in a threat environment will automatically focus on the threat area and automatically, autonomically filter out sensory inputs that aren't clearly relevant to the immediate threat that is perceived.

One factor is the well-researched phenomenon of inattentional blindness. Most drivers have had the experience of a crash or near-miss where they had to exclaim "that came out of nowhere!". Dozens of experiments, including the famous dribbling gorilla,

have proved that we can be looking at something without seeing everything. This notable experiment is a video of a group of basketball players. The observer is asked to count how many times the basketball is passed. In the middle of this exercise, a person in a gorilla suit dribbles a ball through the other players. Most observers are astonished when they are told about the gorilla because they never saw it! When the video is replayed with the observer's knowledge about the distraction, many have to be convinced that it was the same video. The point is that, especially in traumatic events, the human eye will not attend to and record that which is not perceived as relevant to their focus.

When an officer is interviewed about an event, an internal affairs investigator or a defense attorney might ask, for example, whether there was any pedestrian activity on the nearby sidewalk. The officer may simply not remember because their attention was elsewhere. The interrogator might seem incredulous and accusatory – “how could you not see these people on the sidewalk?”. Despite popular conceptions of memory, the brain does not work like a video camera that makes a record of everything within its lens. So many television shows and movies have moments when someone is trying to remember something with their eyes squinted closed, then says they remember something they hadn't thought of before, that we think that is how recall works. It doesn't.

What can occur is the natural filling in the blanks in a narrative. Humans do it all the time and automatically. Did you pass the donut shop on the way to work? You can't recall specifically, but you assume it was. You

wouldn't have a specific memory of it unless you noticed a new sign, were looking for their daily specials, or there was something unusual going on. But you would testify with certainty that the donut shop was there, even though you don't have a specific recollection. The mind just filled in the blanks for efficiency.

The brain does this with our vision. We don't really see something 100% of the time because, for one thing, we have to blink every so often. But we rarely notice our eyes going closed frequently because the brain fills in the blanks. Just like the fact that a movie is actually a rapid presentation of still shots, but our brain sews them together to make the appearance of motion. When we fail to hear exactly what someone says, we often make a very good assumption of what was said because we've heard the phrase so often or we associate body language and facial expression with the thought and our brain fills in the blanks. We may remember and even testify to what we heard when the words never actually registered in our hearing.

Is it relevant for our officer to know that there were people on the sidewalk? Maybe, maybe not. But is it contaminating their report writing to note that fact as they observed it on their body worn camera? Of course not.

There are many cognitive and sensory distortions during traumatic events. It is not rare for an officer who had to fire their weapon to not remember drawing it, not hearing the noise of the gunshot, or even report seeing the bullet on its path toward the target. The brain is trying to keep up with literally millions of bits of

sensory input and, when overloaded, can create perceptual distortions that are hard for the uninformed to believe. An officer can be speaking confidently and truthfully and be accused of lying because of the limited capacity of the human brain – any human, including trained police officers – to present information precisely under stress.

An officer should be able to examine all the evidence before writing their report. It is short-sighted to prohibit them from consulting their notes, their fellow officer's observations, and certainly their own body cam video.

About The Author



This series is authored by [Chief Joel F. Shults, Ed.D.](#) Joel is a retired police chief. He is an award-winning writer, college professor, trainer, and first responder chaplain.