



Alan Carroll Nash

Alan Carroll (A.C.) Nash is an attorney with the Fort Lauderdale Office of Civil Defense Litigation firm, Marshall Dennehey Warner Coleman & Goggin. Mr. Nash focuses his practice on the representation of municipalities and law enforcement agencies in federal and state civil rights matters involving false arrest, malicious prosecution and excessive force. He may be reached at acnash@mdwvcg.com.



Jason L. Scarberry

Jason L. Scarberry is also an attorney with Marshall Dennehey Warner Coleman & Goggin's Fort Lauderdale office. Mr. Scarberry has extensive experience in defending law enforcement officers and agencies against civil rights claims. Additionally, he has defended claims based on violations of the first, fourth, eighth and fourteenth amendments. He may be reached at JLScarberry@mdwvcg.com.

Let's have a look at the footage

As dash cams and body-worn video systems become standard operating procedure, studies are showing dwindling liability claims and better overall behavior

In a profession where split-second decisions can have serious consequences, having a video account of officer interactions can exonerate an officer if his or her actions are brought into question at a later date.

Prior to the 1980s, in-car police cameras were largely nonexistent. The first documented effort to install an in-car police camera was in the late 1960s when the Connecticut State Police installed a camera, tripod and equipment in a police vehicle. At the time, the technology proved impractical. Twenty years later, Mothers Against Drunk Drivers (MADD) brought nationwide attention to DUI and provided funding to law enforcement to equip vehicles with dash cams meant to specifically assist in the prosecution of DUIs.

In the 1990s, during America's "War on Drugs," dash cam footage was used to show juries that defendants had consented to the search of their vehicles during traffic stops. The technology was also utilized to address sensitive issues such as racial profiling in traffic stops and assaults on police officers. In 2000, the Department of Justice and the Office of Community Oriented Policing Services (COPS) initiated the In-Car Camera Initiative Program to provide funding for dash cams to state police and highway patrol agencies throughout the U.S. Prior to this initiative, only about 11 percent of state police and highway patrol vehicles were equipped with dash cams. By 2003, 72 percent of state police and highway patrol vehicles were equipped.

Without a question some officers will negatively perceive the usage of dash cam video as a means for their employer to supervise their patrol. However, research has demonstrated that

dash cam video footage exonerates officers of wrongdoing more than 90 percent of the time.

In May 2011, law enforcement officers in Tomah, Wisconsin were exonerated in the fatal shooting of Seth McCloskey after dash cam footage showed McCloskey exited his vehicle and fired a handgun at officers. In that case, an eye witness testified that law enforcement misrepresented the facts to justify the shooting. However, the dash cam video footage corroborated the officers' version of events. Similarly, in Monona, Wisconsin, dash cam video helped

By treating the camera as another tool, an officer can not only increase his effectiveness, but protect himself from liability, both civilly and professionally.

exonerate a law enforcement officer in a December 2010 shooting.

Outside of Cleveland in 2009, a teenager with a toy gun was fatally shot by law enforcement officers. Once again, the video derived from the in-car technology demonstrated that, in that instance, the officers' use of deadly force was justified.

The benefits of dash cam technology go beyond simply exonerating officers from wrongdoing. They have also been found to enhance officer safety, reduce liability, improve the community/media's perception of law enforcement, and improve conviction rates. Further, in a survey conducted by the International Association of Chiefs of Police (IACP) and COPS, 51

Inside the study: The science of surveillance and officer behavior

What other service industries might benefit?

The Police Foundation's 2013 study: "Self-awareness to being watched and socially-desirable behavior: A field experiment on the effect of body-worn cameras on police use-of-force" studied the ways in which human behavior changes when individuals are fully aware they are being watched.

This study hypothesized that portable cameras would go beyond the limited impact that CCTVs have on expressive acts of violence in public spaces. If cameras could serve as cues that social norms or legal rules must be followed, then a larger "dose" would be even more effective. Mobile cameras, with their immediacy and presence, could demonstrate this effect. In the study, Rialto, Calif. police officers were provided with 108-gram Taser HD body-worn cameras, affixed to either a shirt pocket, hat, collar, shoulder, or sunglasses. Data from the cameras was collated using a web-based management system.

Researchers guessed cameras would increase police officers' self-consciousness, and therefore increase their compliance to rules of conduct, especially concerning use of force. The findings suggest more than a 50 percent reduction in the total number of use-of-force incidents compared with control-conditions, and nearly ten times more citizen complaints in the 12-months prior to the experiment.

The study was the first of its kind to test the theory in a real-life setting.

"We envisage that any rule-enforcing profession can benefit from intensified certainty of apprehension that was 'created' by devices such as body-worn cameras," the study reports. "For instance, medical physicians and other care-providers may benefit from having their interactions videotaped as it can potentially reduce cases of alleged unprofessional conduct." Of course, such practice bears ethical consideration, control measures and cost.

Lastly, the study acknowledged the possibility that the cameras had also modified the behavior of those who interacted with police, as they were cognizant of being videotaped and therefore urged to act cooperatively.

See the full report here: www.policefoundation.org/content/body-worn-camera

percent of people reported they would change their behavior if they knew they were being videotaped.

Although there are many benefits to dash cams, they are limited. Only about 10 percent of police activity takes place in front of the car, and the measurable benefits are limited to those scenarios.

Video cameras and police liability

There are three sides to every story: yours, theirs and the truth. For law enforcement, that's the officer's side, the citizen's side, and the truth. However, advances in technology and the success of dash cams may permit "video" to be synonymous with "truth."

In a profession where it often comes down to two very different versions of the same event, dash cams have proven a useful tool. In some ways, a law enforcement officer who can serve an entire career without facing some sort of civil liability is an anomaly. More and more, patrol men and women are finding themselves the target of disgruntled citizens. This usually results in complaints to the agency and/or a lawsuit.

In such lawsuits, it's not unusual for the version of events provided by the citizen to stand in stark contrast to the version recollected by the officer. In fact, many times officers have difficulty recalling the specific circumstances of an event because of the volume and frequency of similar encounters.

A camera is an unbiased eye and literally has a photographic memory. By treating the camera as another tool, an officer not only increases his effectiveness, but protects himself from liability, both civilly and professionally.

The next step: Body-worn

In March 2013, The Police Foundation published a year-long study, "Self-awareness to being watched and socially-desirable behavior: A field experiment on the effect of body-worn cameras on police use-of-force," conducted in Rialto, California, to determine the impact body-worn cameras would have on law enforcement. The

entire population of front-line officers participated in the study using control and monitored shifts. The study was conducted between February 12, 2012 and February 12, 2013.

In the three calendar years preceding the study, the Rialto Police Department experienced an average of 65 use-of-force incidents and 38 citizen complaints per year. During the 12-month period of the study, Rialto police officers utilized force only 25 times, and only three citizens' complaints were filed. Further, of the 25 use-of-force incidents, 17 occurred during control shifts when officers were not utilizing the cameras. While no data was collected, the study hypothesized that the presence of the cameras, and awareness of being videotaped, modified the behavior of those who interacted with

police. It is likely this contributed to the significant reduction in use-of-force incidents during the 12-month period.

This data is consistent with the study conducted by the IACP and COPS, in which 51 percent of people surveyed would change their behavior if they knew they were being videotaped.

Major cities across America including, Baltimore, Dallas, Albuquerque, Fort Worth, Oakland and Houston, have begun experimenting with body-worn cameras on their officers as they come to understand the evolution and benefits of such equipment, and recognize that body-worn cameras can benefit the 90 percent of police interactions that do not take place in front of cameras.

While some LEOs may raise the same concerns over body-worn cameras as that of dash cams (i.e., the cameras

are there to catch them doing wrong or to watch their every move), the truth is that LEOs are already being videotaped. Everyone has seen videos, often captured on cell phones, depicting what appears to be egregious conduct on the part of patrol officers. Typically, these videos do not capture the entire incident, and oftentimes they only catch the 30-second climax of a prolonged interaction with an individual or group. These videos are posted to the Internet, broadcast on the news, and ultimately form public opinion regarding an incident, a particular agency and law enforcement in general.

With dash and body-worn cameras, officers can simultaneously protect themselves from criminal or civil liability and help improve the public perception of law enforcement. ■