

**The Bill Blackwood  
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**A Case For State-Level Review of Emerging Law Enforcement  
Technologies in Texas**



**A Leadership White Paper  
Submitted in Partial Fulfillment  
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**By  
Michael L. Miller**

**Highland Park Department of Public Safety  
Highland Park, Texas  
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## **ABSTRACT**

The current process by which new technologies are implemented in local law enforcement agencies in Texas is fraught with ambiguity and risk. Continuing to rely on local agencies to formulate their own standards without any state guidance, and based on little more than a sales pitch or the offering of a federal government grant for its purchase, will continue to produce the confusion and waste that characterizes the current process. Texas needs to establish a state-level board to review and make recommendations regarding these emerging technologies. Texas legislators, agency administrators, and subject matter experts should convene, at least quarterly, to review these technologies. Then, they should make recommendations and report on best practices, liability reduction measures, and potential records maintenance and open records requirements associated with each technology. This would enable the over 2,650 public law enforcement agencies in Texas to make more informed purchase decisions while saving thousands of personnel hours currently spent duplicating ineffective research efforts, thereby effectively spending tax payers' money.

The state of Georgia's response to the same challenges began almost 25 years ago. The nearly seamless technology investigation, approval, and recommendation processes they enjoy result from cooperative research by a state university and key legislators. One method for implementing a similar plan in Texas involves the annual institution of a special subcommittee on law enforcement technology review in each house of the Texas legislature. Holding exploratory hearings in these committees, with other potential participants as their guests, is a way to begin this long overdue process. The current liabilities incurred by inaction are unacceptable: Texas needs to begin now.

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## INTRODUCTION

Texas needs to immediately establish a state-level board to review and make recommendations regarding emerging technologies being developed for use by public safety agencies. Texas legislators, state agency administrators, and law enforcement leaders should convene once each quarter to review these emerging technologies. Subsequently reporting their recommendations on best practices, liability reduction measures, potential records maintenance, and open records requirements associated with each technology would enable the over 2,650 public law enforcement agencies in Texas to make more informed purchase decisions and to use these technologies wisely from inception (TCOLE, 2013). It would also save thousands of law enforcement personnel hours duplicating research efforts and potentially millions of taxpayer dollars in oftentimes ill-informed purchases.

Examining a sample process by which technology is currently purchased and implemented by local law enforcement administrators reveals some of the pitfalls they face. After seeing recently invented equipment at the International Association of Chiefs of Police (IACP) convention or similar event, a police chief may speak with sales personnel, collect bags of sales literature, and discusses the technology with his or her peers. The chief may do some computer research or read a review by IACP or the National Law Enforcement and Corrections Technology Center (NLECTC). He or she then returns home and resumes a very busy schedule. Depending on the size of the department, the tasks of research, locating grants and other funding sources, researching state contracts, and preparing bid requests are delegated to a trusted command staff member or line officer. Whether delegated or not, at least one member

of the department spends days or weeks performing research and generating an internal proposal to acquire the technology. At least one highly trained professional in each of the approximately 2,650 departments in Texas (as well as in many of the approximately 18,000 public law enforcement agencies in the United States) will spend time in the same process, even if it ultimately leads to a decision not to pursue the technology at that time. The Department of Homeland Security may influence the chief's purchase decision by supporting a fledgling technology and encouraging early adoption through grant funding. The chief may decide to take what is considered a calculated risk and employ the technology prior to any legislative approval or judicial precedent, development of records retention or open records requirements, or establishment of best practices and liability reduction measures because none of these questions has yet to be answered.

Over the following two to five years, some state legislatures may pass measures regarding this technology's use and some lower court cases may be decided, but the technology may continue to need presentation by an expert witness in every trial that involves its use. In those same years, some departments may establish policies regarding the use of the technology and storage of data that, with no state recommendation or law in place, differ widely between neighboring departments. Some agencies may incur lawsuits regarding the technology's use, while constitutional lawyers debate its applications and decry the lack of more legislative controls on the police in general. Civil rights groups may simultaneously draft legislation and call for moratoriums on the technology's use. Citizens in various states could make open records requests for all records generated by the new technology. Already overworked

city attorneys and police records staff may discover that their state's attorney general has determined that citizens have the right to the video from Taser or drone use, or the license data from the automatic license plate reader (ALPR), for example. The requests increase exponentially and the department's staff is overwhelmed. The true long-term cost of the technology begins to express itself through overtime and/or the need for more personnel. Due to a police department being sued over an officer's use, or alleged misuse of the technology, city managers and councils question the technology's continued use and are not happy with their chiefs' answers. A police department may be instructed to discontinue using the technology, placing possibly expensive gear into a storage closet until the legal issues are settled, and perhaps waylaying it long enough for the technology to become obsolete.

While it is rare for a department to experience all of these pitfalls with any single technology, experiencing some of these consequences is commonplace. The agency learns the hard way the truth of police futurists' admonishment: administrators must be prudent and strategic in determining whether any certain technology will actually improve how the police department operates (Treverton, Wollman, Wilke, & Lai, 2011). Ultimately, Texas should immediately establish a state-level board to review and make recommendations regarding emerging technologies being developed for use by public safety agencies.

## **POSITION**

Involving members of the law enforcement committee of each house of the Texas legislature, state law enforcement agency executives, subject matter experts, and local law enforcement administrators in review and discussion during the

development of new law enforcement technologies would do much to mitigate many of the unintended consequences of implementing them. One consequence is the incurrence of significant departmental and perhaps personal liability, especially by early adopters of the technology. This results from new technologies being purchased and put into use by departments prior to any discussion of best practices. Implementation of a review board at the state level would provide ongoing best practice recommendations that could be implemented from the first day the technology is employed, benefitting law enforcement and citizens alike.

Law enforcement agencies should attempt to play it safe, however, by waiting to adopt clearly needed technologies. Not keeping up with technology as it is developed comes with a price. When the events of September 11, 2001 occurred, the FBI director had only been on the job for a week, just enough time to realize that his agency's information technology was horribly outdated. Due to the lag in technology, when 9/11 occurred, the FBI had to risk wide-reaching technology changes in a short period of time to try and keep up with its expanding responsibilities (Treverton et al., 2011).

The problem is not with agencies' wish to use technology as much as it is the lack of a filter, a kind of all-hazards review at the state level, the level from which recommendations and applicable legislation would be most effective. William Falcon, a former writer-editor with the National Institute of Justice (NIJ) noted that evaluating emerging technologies is very difficult for a single agency to perform without help, asserting that "Most public safety agencies lack the staff and money to follow...new and emerging technologies, to gain access to the evaluations and reports on what works, to engage in long-term technology training, and to consult with technical experts" (Falcon,

2005, p.1). Filling this information void solely with product knowledge provided by the private companies that develop them is not the answer either; companies are excellent at showing customers what the product can do but may not have an understanding of what a police department's needs truly are (Treverton et al., 2011). Local agencies lack the expertise and vendors should not be solely relied on to give decision makers a valid picture of the results of acquiring a new technology. The needed technical prowess should come from a centralized, methodical approach within state government, government that is close enough to home to care about the long-term results.

Concluding that federal government agencies have not attempted to educate law enforcement decision makers regarding technology is incorrect; efforts have been ongoing. The U.S. Department of Justice (D.O.J.) produced a 128-page Law Enforcement Tech Guide in 2002, containing 19 chapters of step-by-step instructions on how to investigate and implement technology (Harris & Romesburg, 2002). While well intentioned, expecting law enforcement administrators to have the time or resources to follow all of the recommended steps was unrealistic. Smaller agencies face even greater challenges than large departments when it comes to making smart technology choices. The International Association of Chiefs of Police (IACP) recognized this and responded by forming a Smaller Law Enforcement Agency Program designed to reach this segment. In the April 2013 edition of *The Police Chief* magazine, IACP surveyed smaller agencies to determine what subjects they most wanted addressed in a smaller agency mini-summit, and technology concerns were one of the top four issues they listed (Ekelund, 2013). The National Institute of Justice also attempted to provide guidance by establishing the National Law Enforcement and Corrections Technology

Center (NLECTC) system to help state and local agencies with their technology, without charge (Falcon, 2005). NLECTC's regional facilities were designed to help "agencies identify, test, demonstrate, acquire, adapt, and implement...new technologies" (Falcon, 2005, p. 5). The NIJ has been forced to concede, however, that most local decision makers rely more heavily on law enforcement associations like IACP for their technology information, leaving NLECTC to concentrate most of its efforts on trying to inform agencies that they even exist by promoting themselves at IACP conferences (Gordon IV, Wallace, Tremblay, & Hollywood, 2012). Even if NLECTC's efforts were more effective, their national point of view lacks focus on what is best for Texas and Texas law enforcement agencies.

While the technical information and how-to tutorials from federal agencies like the Department of Justice (DOJ), along with occasional best practice recommendations from private associations like the IACP are helpful, they do not provide the meaningful recommendations that a methodical state level technology could provide. The advent of new and combinations of existing technologies, next generation (Next-Gen) 911 systems for example, makes such a review process increasingly more important. The nation's 911 communications systems are well into planning and in the beginning stages of implementation of the ability for dispatch centers, or Public Safety Answering Points (PSAPs), to receive and track texts, pictures, and other digital data from the public. PSAPs are also preparing to receive telematics (digital information from on-board vehicle systems) from third party providers like General Motors' OnStar system. While the National Emergency Number Association (NENA) published a transition policy implementation handbook for next generation 911 systems in 2011, its

recommendations are limited strictly to technical information on implementing the system. It fails to address specific liability prevention steps, guidelines for recordkeeping, or preparing for open records requirements (National Emergency Number Association, 2011).

A disturbing trend that adds urgency to the need for state-level technology review is the changing judicial attitude toward law enforcement's use of new less-than-lethal force alternatives. In recent years, courts have broadly interpreted excessive force laws in favor of officers who use new technology weapons such as Tasers. It has been hard for claimants to prove excessive force claims since courts have believed that officers do not understand all of the long-term ramifications of a new technology. However, with research and development underway on other high-pain, low-damage weapons like pain beams, assault intervention devices, and long-range acoustic devices, it is likely that the instances of excessive force claims against officers will increase, and that the courts' lenient approach may become more restrictive (Sussman, 2012).

Elected officials, city managers, and police administrators face challenges in comprehending the total and ongoing cost of ownership (including personnel costs for implementing and maintaining records) for each new technology they evaluate. Administrative rules and laws governing records retention periods are normally set by each state, but not in a timely manner. New technologies are frequently purchased and put into use by departments prior to open records guidelines and retention requirements being established by their state's Attorney General. As the introduction pace of new law enforcement technologies has increased, so has the need for states to formulate rules governing records retention and release earlier in the product's life cycle.

Examining the use of Automatic License Plate Reader (ALPR) technology yields a clear example of the consequences of delayed state action. ALPR technologies typically save an image of a license plate, a larger angle photo of the vehicle the plate is mounted to, an electronically enhanced readable version of the plate numbers and letters, the location and GPS coordinates where the plate was recorded, the time and date of capture, and information that identifies which camera was used (Roberts & Casanova, 2013). The 2007 Law Enforcement Management and Administrative Statistics (LEMAS) survey found that slightly less than half of all agencies using ALPR technology had any policy addressing its use and less than half of those had policies addressing how long data should be retained (as cited in Roberts & Casanova, 2013). In other words, less than one quarter of agencies utilizing ALPR in 2007 had any policy in place regarding the retention of the data they collected. The same survey reports that more than half of large agencies (those with 1,001 or more sworn officers) routinely employed ALPR in 2007, yet five years later, many had not developed policies for ALPR deployment and data management (Roberts & Casanova, 2013).

The few states that have enacted blanket legislation regarding ALPR data retention periods vary widely, with New Jersey allowing retention for five years while Maine limits retention to only 21 days. Meanwhile, Canada has already adopted a nationwide policy governing the retention period for “hits”, vehicles that are stolen or otherwise related to a crime (Roberts & Casanova, 2013).

The experience of the police departments in neighbor cities Minneapolis and St. Paul, Minnesota further illustrates the results of a lack of guidance from the state level on ALPR policy implementation. During 2012, Minneapolis retained location data for a

year, St. Paul for 14 days, and the Minnesota Highway Patrol for only two days (Roper, 2012). Discrepancies like these led 35 nationwide affiliates of the American Civil Liberties Union (ACLU) to file data requests with multiple agencies across the country to discover their own local policies. Minnesota ACLU Director, Chuck Samuelson, observed that there was nothing in place to protect individual rights, including privacy for non-offending citizens recorded and tracked by ALPR technology (Roper, 2012).

The lack of state records retention instructions makes the handling of open records requests daunting, and the situation in Texas is no exception. Texas Attorney General Greg Abbott's office publishes a public information guide each year, and the 2012 edition was a 295-page document of explanations and instructions (Office of the Attorney General of Texas, 2011). Included in its list of the responsibilities of government was the requirement that all governmental bodies should provide requested information promptly and should inform the requestor if the information will not be provided within ten days. Local governments are also required to let the requestor know when the governmental body has asked the Office of the Attorney General (OAG) for a ruling on whether the requested information can, or is required to, be withheld (Office of the Attorney General of Texas, 2011).

The Texas OAG website frequently asked questions (FAQ's) page defines the Public Information Act as providing a way for citizens to obtain government records and for governmental bodies to withhold records that they are required to or wish to not make public (Office of the Attorney General of Texas, 2013). It defines the record types that are affected, stating "any information collected, assembled, or maintained by or for a governmental body is subject to the Public Information Act. The format (paper,

electronic, microfilm, etc.) of the record does not affect its status as a public record” (Office of the Attorney General of Texas, 2013, p.2). These non-specific statements cause local governments to frequently and repeatedly question whether or not they must or are even allowed to release records produced by virtually every technology they utilize. The Center for Public Integrity looked at which Texas cities most often attempted to block public requests for information by appealing to the Texas OAG’s office in 2011. Seven of the top 10 cities with the highest number of review requests, based on the rate of requests per 100,000 residents, were in the Dallas-Ft. Worth area. The Center for Public Integrity then contacted officials in these cities, and most stated that they were trying to ensure that they did not wrongly disclose information that is confidential by law. A City of Dallas spokeswoman explained: “it’s because we try to be careful about what we’re releasing. It’s better to be safe than sorry” (Shannon, 2013b, p.3). Citizens and watchdog groups are not impressed; a report examining the policies of the Attorneys General of all 50 states released in March, 2012 by a partnership of the Center for Public Integrity, Global Integrity, and Public Radio International concluded that although Texas’ open records law is stronger than some other states, the way it is implemented often leads to information that should have been released to the public being withheld (Shannon, 2013b).

Texas municipalities and the OAG currently spend countless man-hours each year attempting to determine the validity of individual requests, and no one is satisfied with the results. Having the Texas OAG’s office involved in an early review of emerging police technologies would give the OAG a chance to begin formulating probable records storage and release requirements prior to implementation of the technology. This would

allow law enforcement organizations to estimate whether their current staffing levels can adequately meet the records storage and information request requirements and better estimate their total cost of ownership prior to purchasing the technology.

Police technology implementation methods have also helped fuel a nationwide debate on the powers and responsibilities of law enforcement in general. The number is growing who believe that the Constitution alone is not sufficient to control and guide police actions and that legislation and public policies are also needed. Harmon (2012) asserted, “scholars should analyze the capacities and incentives of non-judicial local, state, and federal institutions to contribute to a regulatory regime capable of intelligently choosing and efficiently promoting the best ends of policing” (p.1).

Forming such a regulatory regime for police may be more challenging than many realize. Bradley and Kerr found that the constant flow of new technologies used by police form a stumbling block to courts’ development of rules governing policing in general (as cited in Harmon, 2012). Even the Supreme Court is not immune; the advanced age and lack of technical knowledge possessed by Supreme Court justices frequently has a negative impact on their decisions and the technologies they affect, leading Thompson to call for providing the Judges with technology tutorials to “enhance their understanding of the technologies underlying many difficult cases, resulting in more accurate, defensible, and responsible decisions” (2012, p. 200).

Similarly, examples of the struggle to include the public in the formation of police technologies and practices abound. The many weapons technologies being introduced to bring about pain compliance without any rules for their use effectively leave the public out of any discussion of how they should be employed (Mance, 2013). Mance (2013)

bemoaned that courts are avoiding putting Taser use to a jury in excessive force proceedings against officers because of their “fear that a verdict against an individual officer or department could be perceived as a verdict against the weapon itself, dissuading future officers from using a device that in many cases has saved lives” (p.12). Mance (2013) concluded that it is the quick adoption and frequent use of Tasers, by so many law enforcement agencies, that has caused lower courts to assess whether use of the weapon was appropriate on a case-by-case basis, without any similar weaponry to compare it with. Some form of court action threatens to limit Taser use and potentially the use of many other weapons designed to reduce the necessity for lethal force. The more appropriate (and preemptive) timeframe and venue for review of such technologies is during the development phase, allowing legislators, end users, and developers to work together in formulating standards that ensure long term technology effectiveness and acceptance.

Judicial or legislative backlash that hinders the use of a new technology is not just a likely outcome with pain-compliance weapons, but also with any new technologies that impact privacy issues. In a report concerning potential use of Body-Worn Video (BWV) cameras for law enforcement, the Office of the Police Ombudsman for the Spokane, Washington Police Department cautiously recommended their use, but warned: “The issues of admissibility in courts have been cited by some to be a delaying factor in its use. With the relatively recent usage of such devices by law enforcement in the United States, the issue of admissibility is yet to be tested” (“Body-worn video,” 2011 p. 4).

Another example of pushback against technologies with privacy issues comes from Texas. Scott Henson of Austin-based [gritsforbreakfast.org](http://gritsforbreakfast.org) has joined the ACLU in opposing police use of cell phone global positioning satellite (GPS) capabilities without a warrant. Henson has proposed legislation to update the Texas Code of Criminal Procedure, reasoning that the technology has outpaced the law that governs it (Shannon, 2013a).

Failure to provide an early vetting process for emerging technologies also results in failed or drawn out criminal cases that waste department resources and taxpayer dollars. Putting new technologies to use, prior to legislative and/or judicial acceptance, amounts to a role of the dice within the judicial system. The trickledown effect of reducing the number of hours of labor invested in employing expert witnesses to reestablish a technology as admissible in hundreds of lower Texas court cases is worth any effort spent educating legislative and judicial decision-makers. Other states have achieved positive results through such legislative education and partnerships, but Texas has yet to do so. In 2009, the Texas Court of Criminal Appeals' failed to hold Light Detection and Ranging (LIDAR) equipment (used for vehicle speed measurement) reliable (Cox & Fors, 2011). This prevented lower courts from taking judicial notice (automatically accepting the technology because it has been declared valid by a higher court) and left them with the responsibility of discussing the merits of the technology during each and every LIDAR case that comes before them. In stark contrast, LIDAR was declared reliable *by statute* in Georgia. The Georgia Department of Public Safety composed a list of department-approved speed detection equipment, and the Georgia legislature "confirmed their reliability by enacting a statute that deferred to the

Department for any determination of reliability. Georgia courts have declined to limit the statute, instead deferring to the legislative and law enforcement decisions” (Cox & Fors, 2011, p. 862). The International Association of Chiefs of Police (IACP) has approved all of the same models, as have the legislatures of Virginia, Maine, Connecticut, Minnesota, North Carolina, and Florida (Cox & Fors, 2011). Texas legislators and law enforcement administrators must work together in examining and adopting a similar methodology. Failure to do so will continue to abandon technology questions to often ill-informed judicial decisions on a laborious and expensive case-by-case basis.

### **COUNTER POSITION**

Those opposed to the idea of a systematic state level review and recommendation process for emerging police technologies point to the likelihood of technology manufacturers using lobbyists to quickly advance their cause in front of such a board. Such conduct could influence a technology’s acceptance rather than basing it on an unbiased examination of the technology’s merits. Civil libertarians believe that the result would be little improvement in the rights of citizens when these technologies are applied, and practitioners point out that just because a technology has been invented does not mean it is appropriate for police use (Traverton, et al., 2011).

Carefully choosing the composition, structure, and process of the review board are the keys to abating these concerns, as well as to the board’s impact and usefulness. The National Fire Protection Agency (NFPA) employs a process worth emulating. The path by which it develops fire codes and standards systematically gives each stakeholder the chance to have input throughout the development of a new technology

(“Guidelines- demystifying NFPA,” 2009). Establishing a level playing field is an essential requirement for the success of the process.

Another potential source of opposition originates with those whom the proposal is targeted at helping: municipal and county governments. Texas cities and counties have always been fiercely independent and are not about to change, nor should they. Police departments do not want to be controlled by the state by letting it usurp their technology choices. The elected officials and agency administrators in each locale are best suited to weigh the needs and concerns of both their citizens and their law enforcement personnel. Local decision makers understand their staffing challenges as well as their staff training and education levels, making them uniquely equipped to estimate the impact that employing any new technology might have. The establishment of state-level technology review and recommendations should not abridge their right to decide whether or not, or when, a given technology is implemented locally. Most local law enforcement officials understand this, and because they are the ones wading through the morass of technologies and public expectations, they remain some of the most vocal proponents of state input.

The lack of a state standard and the resultant variances in the records retention policies for ALPR data in Minnesota is a prime example of the need for state-level involvement. The lack of statewide ALPR standards not only concerned the Minnesota ACLU, but the law enforcement agencies using ALPR as well. A Minneapolis Police Sergeant explained: “The Minneapolis Police Department has no guidance from the state of Minnesota as to how long this (ALPR) data should be kept. We are hopeful that

such guidelines will be put in place for a statewide standard” (Roper, 2012, p. 1). Such standards remove ambiguity and legitimize the technology they affect.

The manufacturers who produce the technologies targeted for use by law enforcement and who stand to profit from them potentially comprise a formidable source of opposition to state-level early review. Producers and vendors currently enjoy the freedom to sell to local law enforcement agencies without the types of technology review processes long in place for the military. The proposed process may be misconstrued to hinder free enterprise, potentially diminishing the incentives for research and development of law enforcement technologies. Free-enterprise proponents cite a recent case where the Environmental Protection Agency (EPA) rescinded its previously granted permit to a private contractor, asserting that “businesses are reluctant to make large capital investments such as purchasing equipment and building facilities when they have no idea whether they’ll even be allowed to continue to work on their projects” (as cited in Parker, 2013, p. 2).

Establishment of state level technology review like that already occurring in other States can be structured very differently from the restrictive federal government processes that regulate government contractors. Submission for state level review while in the product development stage would allow manufacturers to gain a law enforcement perspective earlier in the process, likely resulting in the product being more widely accepted at initial introduction and reducing the total expense associated with research and development. Eliminating unnecessary or politically unusable features or the need for immediate retrofits after introduction would save both the manufacturer and user’s time and money over the product’s life cycle. Manufacturers also benefit

because average citizens expect the new technologies they have seen or heard about to be in use in their local department, putting pressure on local officials to improve technology even if they are inadequately funded and have no budget for it (Rosati, 2013). Initial acceptance by a state-level reviewing body would encourage grants and ease the minds of traditionally cautious, late-adopting, local decision makers, ultimately resulting in more agencies purchasing the technology earlier than they would have otherwise. Manufacturers and suppliers would also benefit from longer-term use of the technology without interruption, encouraging its continued popularity, profitability, and likelihood that customers would maintain brand loyalty as product upgrades are released over time.

## **RECOMMENDATION**

The current process by which new technologies are implemented in local law enforcement agencies provides little guidance while placing all of the potential liabilities squarely on local administrators' shoulders. Continuing to rely solely on local agencies to formulate their own standards without any state guidance or criminal and civil judicial interpretations, and based on little more than what has been proposed by vendors, will continue to yield the confusion, frustration and waste that occurs today. Involving key legislators, state agency executives, and subject matter experts on emerging technologies in a review and recommendation process would do much to remedy the situation, saving time for law enforcement officials and money for the citizens they serve. Quarterly review of emerging technologies would yield recommendations on best practices, liability reduction measures, and potential records maintenance and open records requirements associated with each technology.

This new process would result in best practices being established prior to use by all but the earliest “bleeding edge” adopters of the technology, greatly reducing the technology-driven liability of local governments. While not necessarily fully formulated, initial comments from the Texas Office of the Attorney General would lend needed guidance to local administrators trying to calculate the ongoing staffing needs associated with records retention and open records request fulfillment. Texas legislators who participate in the law enforcement committees of the Texas House and Senate are likely candidates to become technology board members. Much like the method employed by the state of Georgia today, these members would not only make initial recommendations, but could further help guide legislative acceptance of certain technologies that would prevent the wasting of untold time and money during years of judicial posturing. Structuring the make-up and processes of the board to limit industry testimony to that of company engineers with at least two years tenure, (and not from sales personnel) along with incorporating practices similar to those of the NFPA, would ameliorate concerns that the process could be politicized into ineffectuality. Leaving the final choice of whether or not to implement a given technology to local governments ensures that local decision-making powers are maintained, but within a less confusing framework. Manufacturers would ultimately realize research and development savings, a reduced number of customers who wait very late in the cycle to adopt the technology, and potentially higher sales over the product’s life cycle.

Few dispute the accelerating rate of technology development and the effects it has on the way law enforcement operates. A decision to explore recommendations for state level review stems from heeding the old adage: “If we do what we’ve always done,

we'll get what we've always got." A closer examination of those who have taken a different path is worthwhile.

The state of Georgia's response to these same technology challenges began almost 25 years ago, and the success they enjoy today is enviable. Georgia law enforcement's relationship with its legislature and courts has not occurred by accident. Georgia's criminal justice agencies joined with Georgia State University to create the Georgia Statistical Analysis Bureau (SAB) in 1990. Established for the purpose of analyzing criminal justice data, the research it performed was "aimed at providing timely, practical information regarding the criminal justice system to policy analysts, the Governor, legislators, other elected officials, and members of the public interested in criminal justice issues" (Friedman, Ruback, & Huang, 1992, p.261).

Providing government officials with empirical data leads to better government decisions (Friedman, et al., 1992). Georgia began its efforts based on the National Advisory Committee on Criminal Justice Standards and Goals (1976) recommendation for research and development efforts on technology and its relationship to criminal justice problems (Friedman, et al., 1992). The collaboration of local law enforcement with state universities, legislatures and judiciaries has been advocated for nearly 40 years, and has proven to benefit all parties involved in Georgia's model.

One possible method for implementing a technology review board is through the annual institution of a special subcommittee on law enforcement technology in each house of the Texas legislature. The high volume of legislation before the Texas House and Senate each session causes most bills to originate within committees that legislators are assigned to, but subjects that require a large amount of analysis can be

assigned to a subcommittee of the committee for research and reporting purposes (Research Division of the Texas Legislative Council, 2012). If review and recommendations ultimately lead to the need for legislation, it can be drafted by a legislator, professional staff, or by “organizations or individuals with a particular interest in certain matters” (Research Division of the Texas Legislative Council, 2012, p.1). While a single legislator may originate a bill, they often start with recommendations from a standing or special legislative committee that has studied a specific issue. Both senate and house committees submit interim reports on the issues they investigate. The officer in charge of each committee has the authority to “appoint citizen members and other public officials of state and local governments to a special interim committee to augment its legislative membership for the purpose of conducting a special study” (Research Division of the Texas Legislative Council, 2012, p.1). Utilizing this method to establish ongoing technology review would require annual reestablishment by the legislature.

An alternative implementation route involves employing the method by which the Commission on State Emergency Communications (CSEC) is comprised. CSEC is the state agency that oversees 911 systems statewide. Its 12 members represent both the public and private sectors (Research Division of the Texas Legislative Council, 2012). The Governor, Lieutenant Governor and the Speaker of the House appoint members to represent Cities, County Government, and Emergency Communications Districts. Three of the members participate because of their position within state agencies (Research Division of the Texas Legislative Council, 2012). A review board examining emerging technologies that affect law enforcement and other state agencies could be

composed in the same manner, representing manufacturers, law enforcement agencies, state legislators, the OAG, Texas Department of Public Safety, the Texas Commission on Law Enforcement, and perhaps IACP and NLECTC.

Further inaction will exact a high price. Local law enforcement officers spend thousands of man-hours duplicating research each year, frequently failing to find adequate information regarding key decision points. Courts are left, by default, to struggle with technology on a case-by-case basis with little legislative guidance. Legislators receive little information until late in the technology implementation process, usually after a public outcry has drawn their attention to a potentially misused or intrusive technology. Millions of taxpayer dollars are wasted on equipment that is stored or discarded after purchase, due to unintended operating and data storage expenses, open records requirements, or court challenges. Entire classes of police technology face the possibility of being banned from use or be so severely curbed that their benefits to law enforcement and those they serve is minimal at best. Stakeholders need to take action by holding exploratory hearings in the law enforcement committees of the Texas legislature, inviting other potential participants as their guests. Like any worthwhile venture, the process will not begin perfectly, but it will improve over time. Texas needs to begin developing its process now, to greatly benefit all involved.

## REFERENCES

- Body-worn video & law enforcement: an overview of the common concerns associated with its use. (2011). Retrieved May 13, 2013 from [www.spdombudsman.com/wp-content/uploads/2012/02/Attachment-G-Body-Camera-Report.pdf](http://www.spdombudsman.com/wp-content/uploads/2012/02/Attachment-G-Body-Camera-Report.pdf)
- Cox, R. V., & Fors, C. (2011, May 26). *Admitting light detection and ranging (LIDAR) evidence in Texas: A call for statewide judicial notice*. Retrieved from [http://stmaryslawjournal.org/pdfs/Cox\\_II.pdf](http://stmaryslawjournal.org/pdfs/Cox_II.pdf)
- Ekelund, B. (2013, April). Bringing the voice of smaller agencies to the national dialogue. *The Police Chief*, 84(4), 56-65.
- Falcon, W. (2005, July). *Special technologies for law enforcement and corrections* (NIJ Journal Issue No. 252). Retrieved from <http://www.nij.gov/journals/252/technologies.html>
- Friedman, R. R., Ruback, R. B., & Huang, W. (1992, September 1). A research agenda for criminal justice in Georgia: Consensus across agencies. *Criminal Justice Policy Review*, 6(3), 261-274. doi: 10.1177/088740349200600305
- Gordon IV, J., Wallace, B. A., Tremblay, D., & Hollywood, J. (2012). *Keeping law enforcement connected*. Retrieved from [https://www.rand.org/content/dam/rand/pubs/technical\\_reports/2012/RAND\\_TR1165.pdf](https://www.rand.org/content/dam/rand/pubs/technical_reports/2012/RAND_TR1165.pdf)
- Guidelines-demystifying NFPA code and standard development. (2009, May). Retrieved May 13, 2013 from <http://lifesafetymagazine.com/2009/05/guidelines-demystifying-nfpa-code-and-standard-development>

Harmon, R. (2012, March). The problem of policing. *Michigan Law Review*, 110, 761-818. Retrieved from

<http://www.michiganlawreview.org/assets/pdfs/110/5/Harmon.pdf>

Harris, K. J. & Romesburg, W.H. (2002, August). *Law enforcement tech guide for information technology security*. Retrieved from

[www.search.org/files/pdf/ITSecTechGuide.pdf](http://www.search.org/files/pdf/ITSecTechGuide.pdf)

Mance, I. A. (2013, January). Power down: Tasers, the fourth amendment, and police accountability in the fourth circuit. *91 North Carolina Law Review*, 606-654.

Retrieved from <http://www.nclawreview.org/documents/91/2/mance.pdf>

National Emergency Number Association. (2011, June). *Next generation 9-1-1 transition policy implementation handbook*. Retrieved from

[www.nena.org/resource/resmgr/ngpp/ng911\\_transition\\_policy\\_hand.pdf](http://www.nena.org/resource/resmgr/ngpp/ng911_transition_policy_hand.pdf)

Office of the Attorney General of Texas. (2013). *Attorney General of Texas Greg Abbot frequently asked questions*. Retrieved from

[https://www.oag.state.tx.us/open/og\\_faqs.shtml](https://www.oag.state.tx.us/open/og_faqs.shtml)

Office of the Attorney General of Texas. (2011, November). *Public information 2012 handbook*. Retrieved from

[www.oag.state.tx.us/ag\\_publications/pdfs/publicinfo\\_hb.pdf](http://www.oag.state.tx.us/ag_publications/pdfs/publicinfo_hb.pdf)

Parker, R. (2013, April 25). *Court decision leaves companies wondering "which way...from here?"* Retrieved from

<https://www.freeenterprise.com/regulations/court-decision-leaves-companies-wondering-which-way-here>

- Research Division of the Texas Legislative Council. (2012). *Guide to Texas legislative information for the 83rd legislature*. Retrieved from Texas Legislative Council: [www.tlc.state.tx.us/pubslegref/gtli.pdf](http://www.tlc.state.tx.us/pubslegref/gtli.pdf)
- Roberts, D.J. & Casanova, M., (2012). *Automated license plate recognition (ALPR) systems: policy and operational guidance for law enforcement*, Retrieved from <https://www.aclu.org/files/FilesPDFs/ALPR/federal/NHTSA/15948-16075DOJ-IACP%20report.pdf>.
- Roper, E. (2012, August 10). Police cameras quietly capture license plates, collect data. *Star Tribune*. Retrieved from <http://www.startribune.com/local/minneapolis/165680946.html?refer=y>
- Rosati, M. E. (2013). Wrestling with technology in the defense of police civil rights and liability litigation. In *Representing municipalities in litigation leading lawyers analyze recent trends and guide municipal clients in litigation* (pp.73-86). Warwick, RI: Thomson/Reuters/Aspatore.
- Shannon, K. (2013a, January 10). Texas civil liberties advocates seek limits on law enforcement tracking cellphones. *Dallas News*. Retrieved from <http://www.dallasnews.com/news/politics/state-politics/20130110-texas-civil-liberties-advocates-seek-limits-on-law-enforcement-tracking-cellphones.ece>
- Shannon, K. (2013b, April 20). Dallas suburbs lead in attempts to deny public records. *The Texas Tribune*, p. 3.
- Sussman, A. (2012, June). Shocking the conscience: what police tasers and weapon technology reveal about excessive force law. *59 UCLA L. Rev.* 1342. Retrieved from <http://www.uclalawreview.org/?p=3567>

- Texas Commission on Law Enforcement. (2013). Retrieved May 13, 2013 from <http://www.tcole.texas.gov/content/current-statistics>
- Thompson, K. (2012). Luddites no longer: adopting the technology tutorial at the Supreme Court. *91 Texas Law Review, Rev 199*. Retrieved from <http://www.texaslrev.com/91-texas-l-rev-199/>
- Treverton, G.F., Wollman, M., & Wilke, E., & Lai, D. (2011). *Moving toward the future of policing*. Retrieved from <http://site.ebrary.com/lib/shsu/Doc?id=10506596&ppg=96>