

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

---

---

**Law Enforcement Transparency  
And the Media**

---

---

**A Leadership White Paper  
Submitted in Partial Fulfillment  
Required for Graduation from the  
Leadership Command College**

---

---

**By  
Mitch Scoggins**

**Boerne Police Department  
Boerne, Texas  
February 2019**

## **ABSTRACT**

As society evolves, so do aspects within society including the news media and their approach to get current stories out to their viewers or readers as quickly as possible. The news media, whether mainstream, local, or in between, plays an instrumental role in how law enforcement is depicted throughout the country. In attempt to prevent the dissemination of inaccurate or incomplete facts to their subscribers, it is imperative that law enforcement agencies enhance their media transparency within their communities. By completing this objective on a regular basis and developing a good working relationship with local news media outlets, law enforcement is less susceptible to fresh stories being disseminated to the public without the reporters first obtaining those crucial facts that could potentially cause the community to lose confidence in their local law enforcement. The ability to conduct day to day operations with transparency and trustworthiness, along with the implementation of a public information officer, could play a vital role in preventing major crisis situations which may evolve from social media platform posts or inaccurate eye-witness testimony. Across the nation, the public relies on the news media to quench their thirst for news updates that effect their community. Therefore, the concept that law enforcement must enhance their relationship with the news media is paramount.

## TABLE OF CONTENTS

	Page
Abstract	
Introduction . . . . .	1
Position . . . . .	4
Counter Arguments . . . . .	8
Recommendation . . . . .	11
References . . . . .	14

## INTRODUCTION

It was a warm, sunny morning in July in an exponentially growing hill country community in Texas. Officer Morales was on patrol in his assigned sector and observed a vehicle that committed a traffic violation at which point Officer Morales conducted a traffic stop. During the traffic stop, Officer Morales reported that he “noticed the driver only rolled down his tinted window approximately 2 inches” (Morales, 2016, para. 2), followed by the odor of marijuana emitting from the vehicle masked with a smell of freshly sprayed perfume or air freshener. The demeanor that the driver displayed, along with other non-verbal cues that Officer Morales picked up on was alarming to him, which ultimately set the tone for the contact. Officer Morales learned that the driver had a suspended driver license which was accompanied by the odor of marijuana emitting from inside the vehicle, giving Officer Morales probable cause to have the driver exit the vehicle and conduct a probable cause search. After a back and forth discussion, the driver refused multiple times to exit the vehicle even after the officer gave commands to exit. Officer Morales observed the rear seat passenger moving around and directed his cover officer to his observation. A short time later, the cover officer yelled “gun,” leading Officer Morales to react by drawing his duty issued firearm. The driver opened the door a short time later but still refused to exit. Officer Morales holstered his weapon and attempted to go hands on with the defendant but was ultimately pushed away after losing his grip and fell to the ground. The defendant then swiftly closed the door and appeared to be trying to restart his vehicle, possibly attempting to flee from the officers. The defendant’s window was then smashed out with an ASP baton and the defendant

was tased a short time later in attempt to prevent the defendant from fleeing. Defendant Bermudez was taken into custody after a brief struggle with officers (Morales, 2016).

This quiet hill country community was stunned that an incident like this could take place so close to home. The facts behind the story were sought out by the local media. The reporter for the local newspaper attempted several times to obtain a response from the police department to ascertain details of the incident, but she was met with a limited response due to it being an ongoing, internal use of force investigation. Meanwhile, the reporter pursued other leads for details of the incident and interviewed the defendant that had been arrested from the incident. The defendant provided his version of the incident which the reporter then took and published in the next issue. As a result of the limited information obtained from the police department representative, the reporter went with what she had in order to meet the paper's required deadline.

The article opened with "The oft opposing sides of the law and community, and the growing chasm between that has dominated national news hit home last week" (Goode, 2016, para. 1). In the article written by the journalist, there is mention of information provided by the police department representative who explained how Bermudez was being argumentative and uncooperative, as well as the odor of marijuana and suspended license issues. In Bermudez' response, he states "The increasing number of incidents being revealed through mainstream media that blatantly suggest that the men and women we have entrusted to *protect* and *serve* are no longer effectively serving *us*" (Goode, 2016, para. 18). Goode (2016) also quotes Bermudez stating that he cannot hate Officer Morales for doing what he was trained to do, but also

suggests that the way police are trained now needs “radical” reformation. Just by reading the article, it appears that the time spent during the interview with the defendant was far more in depth than that of the interview provided by the police department due to the greater detail written in the article relating to the defendant’s response.

Once the paper was published, the newspaper organization was met with backlash from the community after it portrayed what the public perceived as an attack on the local police department. City officials including the Mayor, Chief of Police, and City Manager felt this particular article warranted a response to ensure the community that the police department and its officers did in fact act professionally and took action within the legal and ethical bounds of the law. The Mayor posted a message on the police department Facebook page on July 27, 2016 expressing his disappointment in comments left by the citizens to this incident that suggest the local police department was acting unprofessional or abusing their authority (City of Boerne, 2016).

Further, on July 28, 2016, the Chief of Police wrote a letter, also posted on the police department’s Facebook page, explaining how the department felt that the newspaper article published was inaccurate and incomplete (Boerne Police Department, 2016). The Chief of Police wrote, “Rather than writing a story that documented the real facts and context of this incident, the Boerne Star reporter elected to forego journalistic ethics and her obligation to accurately report a police-citizen encounter” (Boerne Police Department, 2016, para. 8). The perception of the story in this community had a tremendous impact on the citizens as well as the police department and city officials. Considering the media and their duty to report news, it is

imperative that law enforcement agencies should enhance their media transparency within their communities.

## **POSITION**

Media outlets throughout the world are responsible for reporting the news and disseminating pertinent information to the public. As the media industry evolves, so does the need for law enforcement agencies to become more transparent with those involved in media so as to build up a healthy working relationship between the two. The public either views on television or reads in a publication what the latest and greatest news story is. Penshorn (2013) reports that “The media has the unique ability to reach the public in ways that law enforcement cannot do alone” (p. 2). The public perceives that what is reported in the news is true and accurate, whether or not that is reality. Law enforcement has long had an aversion to providing information to the media due to some journalists not following the journalism code of ethics, therefore portraying law enforcement, specifically, in a negative light.

Many law enforcement agencies have employed the position of a Public Information Officer (PIO) who is responsible for being a readily accessible liaison for the media who disseminates specific yet complete information to the media for reporting purposes. Not only is the PIO responsible for building and maintaining a healthy and trusting relationship between law enforcement and the media, but also to work towards agency mission goals (Penshorn, 2013). The information that media is seeking is ultimately for the end reader, namely the public.

When the information request is presented to a law enforcement agency from any media outlet, there is a duty for that agency to reply not only legally, but also to

ensure that the agency is being transparent. This transparency requirement is crucial in the trust that the community places in that agency. The Texas Attorney General website states “An open government is the cornerstone of a free society” (“Open Government,” n.d.). As law enforcement evolves, it must still uphold the constitutional rights set forth by the founding fathers. The public has the right to know of incidents that affect them and their communities. They must be able to trust in law enforcement to handle incidents in an open and transparent manner.

Law enforcement transparency could prevent major crisis situations or major incidents from transpiring through negative media attention. In 2014, an 18-year-old black man was fatally shot and killed by a white police officer in Ferguson, Missouri. The events surrounding the aftermath had come to be known as what is now referred to as “The Ferguson Effect” (U.S. Department of Justice, 2015). These events which included civil disorders, riots, Department of Justice investigations on officer misconduct and racial issues were all met with an overwhelming amount of nationwide media coverage, including both mainstream and local coverage (Nix & Pickett, 2017).

The continuous negative publicity surrounding law enforcement affected law enforcement agencies around the nation. Officers were targeted and ambushed all over the country because of the outrage of racial tensions whether or not they were involved in any similar incidents. This in turn affected police-civilian interactions because of legitimacy and trust issues that ensued from this incident. The media played a huge role in the events that transpired during the aftermath as inaccurate and incomplete information was disseminated during the beginning stages of the shooting investigation.



Officers began de-policing, or stepping back from a proactive policing approach due to fear of being the subject of negative media attention (Nix & Pickett, 2017). The foundation of trust between a law enforcement agency and their local media, as well as that agency's ability to be transparent, plays a crucial role in how stories are presented to the public. These two factors and getting the facts of the initial incident out in a timely manner could aid in preventing a catastrophic aftermath such as what happened in Ferguson, Missouri. According to the Department of Justice official report, journalists sought out potential witnesses that claimed they witnessed Officer Wilson shooting Brown after he put his hands up to surrender. This report also states that after these supposed witnesses reported their accounts of the event to the media, they were later interviewed by law enforcement professionals and "acknowledged that they did not actually witness the shooting, but rather reported what others told them" (U.S. Department of Justice, 2015, p.77). The issue of supposed witnesses reporting inaccurate information undoubtedly fueled the anger in those already upset about the incident.

In society today, it is commonplace for civilians to have handheld, wireless devices such as cell phones or tablets which are readily accessible to record incidents as they transpire. With these devices available, civilians produce only a portion of the real story. According to Singh, (2017), cell phone video, namely between police and citizens, can portray the misuse of power in the legal capacity. While the civilian recording an incident has factual evidence of the case, they do not possess the entire story on video or the origin of the encounter and the reason why the incident escalated into what the civilian recorded. Social media acts as a platform for civilian recordings.

The U.S. Department of Justice report on the Michael Brown shooting in Ferguson, Missouri, also made reference to authorities at both the local and Federal levels who conducted searches of social media sites in attempt to identify possible witnesses to the incident who may have posted videos on social media platforms (U.S. Department of Justice, 2015, p. 4).

Social media sites range from Facebook, Twitter, Snap Chat, Instagram, and a range of other sites geared towards disseminating messages, videos, or pictures from one subscriber to their friends or the public. YouTube is another site where videos can be posted and viewed by millions of people in a matter of minutes. The rate at which these media posts can go viral could be detrimental to a law enforcement agency's reputation from negative publicity in an incident where the officer may or may not be in the wrong. However, the opportunity is inevitably present for these issues to happen making it imperative that law enforcement agencies cooperate and make information available regarding an incident to contradict, if needed, potential negative media attention to maintain transparency and public trust.

This is where the implemented Public Information Officer (PIO) plays a key role. An article by Marcou (2010) reads, "Get the facts to the media in justifiable uses of force as quickly as possible. This may keep them from shoving their cameras in the face of 'witnesses' who actually arrived three minutes after the smoke has cleared" (para. 20). Furthermore, a proactive method of disseminating information and receiving proper training for this purpose by law enforcement agencies have been found to receive a more empathetic response (Marcou, 2010). It is also common practice to get the District Attorney's Office involved and communicate with them what protocol has been

enacted by the law enforcement agency to maintain a healthy relationship within the judicial system as well.

## **COUNTER POSITION**

The public demands that justice be served and most people believe that “Eyewitness testimony is considered to be powerful evidence in a criminal trial” (Rose & Beck, 2016, p. 243). It is perceived and believed that an eyewitness to an incident is able to recall facts and present them to law enforcement investigators as well as media reporters and journalists. For the most part, an eyewitness can provide what happened in an incident and name specific details about a suspect, or about what they saw a law enforcement officer do to a perceived innocent civilian that was out of line. This information is then presented to the public via mainstream, local, and social media platforms which again have the potential to reach millions of viewers in a matter of minutes. Rose and Beck (2016) also report that a 2009 CBS News poll contained results stating that only 7% of Americans believed eyewitness identification to be unreliable, leaving 93% of those polled believing that those eyewitness identifications are reliable. Rose and Beck (2016) further states that 37% of Americans in the same poll believed that a single person who was deemed as credible and whose testimony points towards the defendant being guilty should be enough for a conviction on that defendant.

Numerous studies have been conducted regarding eyewitnesses and their ability to accurately identify suspects. One study in particular as reported by Rose and Beck (2016), focused on “Eyewitness cross-contamination: misinformation and misidentification” (p. 247). This detailed study was set in a stadium style lecture hall with

actors playing the roles of the teacher and suspect. All other subjects in the lecture hall were unknowingly the control group. During the study, the suspect entered the lecture hall and stole the teacher's purse from the desk. The teacher then chased after the suspect and returned to the lecture hall a short time later. During the incident, the scenario that was set up ensured there were no obstructed views from anyone in the lecture hall. All subjects inside the lecture hall were interviewed as eyewitnesses to the incident, yet the results found that less than one-third of the eyewitnesses were able to positively identify the theft suspect.

The study also found that "For every 5 feet in distance from the crime, there was a 6% decrease in eyewitness accuracy, despite the unobstructed view" (Rose & Beck, 2016, p. 259). This is one of many studies that confirms that eyewitness testimony is not a solely reliable form of evidence as it presents discrepancies from the true events that took place. Therefore, when a media journalist interviews a potential eyewitness, it is likely their recollection of the event does not contain complete and accurate information regarding the incident.

What the media presents whether in a publication or mainstream news media stations are perceived to be accurate and complete. Over the past several decades, the public trust in news media has fluctuated in light of economic factors that contribute to influences that the media is portrayed to have in various categories ranging from politics to crime reporting. Dowler (2003) suggests that mass media plays a tremendous role in how crime stories are constructed before they are viewed by the public. The construction of such stories thus influences the opinions to which the public has on how the story is created. For example, during the shooting investigation of

Michael Brown in Ferguson Missouri, supposed witnesses to the shooting reported that they saw Officer Wilson shoot Brown when his hands were up which in turn influenced the public's perception of the incident (U.S. Department of Justice, 2015, p.77).

The vast majority of the public have limited knowledge of the inner workings of law enforcement operations and how information is disseminated to the media and the public after a use of force situation. Therefore, the stories that achieve mass media coverage worthiness that relate to crime and law enforcement are viewed or read about in other parts of the country, ultimately influencing the public to believe that what is reported from the media is factual. An article by Brown (2015) makes reference to what psychologists call the "backfire effect." This effect states that if the public is familiar with certain phrases or statements, they are more inclined to believe it to be the truth versus unfamiliar phrases. The volume at which this takes place innately draws influence to the public perceiving what the media is reporting is a thorough and accurate depiction of the incident. A study in Portland, Oregon that Brown references that those surveyed in the study "felt individual criminal events were well reported by the news" (2015, para.8).

The DOJ Official Report of the Michael Brown shooting reports that those witnesses who claimed to have seen the shooting, later retracted their statement when interviewed by law enforcement professionals, and corrected the original presumption saying they did not actually witness the incident (U.S. Department of Justice, 2015, p. 8). Public confidence of the news media has continuously declined over the past decade. Some research suggests that media outlets have ulterior motives instead of reporting the truth in an accurate depiction. Those ulterior motives fall under a number of influences which could relate to politics, or the ability to capture market share thriving

off the public thirst for news. CNS News announced survey results from a survey conducted by Gallup revealing that 18% of Americans in the survey expressed a “great deal” or “a lot” of confidence in the news media (Chapman, 2014).

The implementation of 24 hours news coverage which took place in June of 1980 by Cable News Network (CNN), brought about the public thirst for knowledge of local, national, and world events as they transpired (“This day in history,” n.d.). The media trend that CNN began evolved over time into our present-day media outlets which always pursue the next big story. The journalist industry has put in place a Code of Ethics which encourages four major components. These consist of seeking the truth and reporting it, minimizing harmful repercussions of such report, acting independently, and being accountable and transparent (Society of Professional Journalists, 2014). According to the Society of Professional Journalists, they believe that enlightening the public through journalism is the first step when seeking justice (Society of Professional Journalists, 2014). With knowledge of the universal journalism code of ethics, those in the journalism industry responsible for reporting should report true and accurate information, where in fact there are numerous news media outlets that do not abide by these guidelines according to public surveys.

## **RECOMMENDATION**

Law enforcement throughout the nation rely on the public to efficiently and effectively serve their communities. The vast majority of the public seeks knowledge of crime within their communities from local media outlets, therefore it is imperative that law enforcement agencies enhance their transparency with the media. By doing so, the opportunity to work alongside the media to ensure the dissemination of accurate and

complete information is crucial to law enforcement's ability and opportunity to be transparent and trustworthy. The law enforcement profession exists solely to serve the public by protecting and serving their communities. Over the past decade, a magnifying glass has been placed over law enforcement, enhanced by the media that highlights positive and negative incidents that involve crime and the perception that media stories create is ultimately public reality. However, if law enforcement agencies work well together with their local media outlets, it increases the ability to make sure correct and complete information is disseminated within a timely manner which could ultimately prevent crisis situations or other major incidents from escalating.

There is also a necessity to address the issue of social media news distribution from civilians and their ability to post comments, pictures, or videos of incidents. The posting of videos, for example, of use of force incidents involving police, have the ability to go viral on social media platforms and reach millions of viewers within a matter of minutes. This issue greatly increases the need to team up with the media to relay the facts surrounding the incident as those videos obtained by civilians may only produce a portion of the incident, potentially creating negative and unnecessary media attention.

Many people believe an eyewitness is one of the best forms of evidence in a criminal case. Although eyewitness testimony can play a major part in a criminal conviction, there have been studies that have found that eyewitness testimony has a high possibility of being inaccurate. When a supposed eyewitness testimony is provided to the media prior to that eyewitness being interviewed by law enforcement, it could present major obstacles in an investigation that are unnecessary as well as hold

the potential to fuel public outrage about an excessive use of force incident that was not truly excessive.

Americans thrive on news media especially after the implementation of 24-hour news coverage. Viewers are able to get up to date news regarding a plethora of categories ranging from politics, crime, and local community impact news. The public holds the perception that the news media adheres to the journalistic ethics and believes those stories covered contain complete and accurate facts. There are, however, numerous occasions to where the media has disseminated information to the public that contains inaccurate facts, or only a portion of the story which comes with the nature of 24-hour news coverage and the urgency of the media to broadcast or publish the story.

Law enforcement agencies should all have Public Information Officer's (PIO) within their agencies. It is also recommended that the PIO get to know local media contacts who would be responsible for covering stories in their area. The PIO should also have open lines of communication with the District Attorney's Office, as well as the agency administration and work towards incorporating policies and procedures that outline how to effectively accomplish the dissemination of true and accurate information in a timely manner. With the successful implementation of these key components into law enforcement agencies, the public will respond with trust and support which is vital to the success of law enforcement being able to successfully protect and serve their communities



## REFERENCES

- Boerne Police Department. (2016, July 28). An open letter to the Citizens of Boerne. In *Facebook* [Fan page]. Retrieved January 11, 2018 from <https://www.facebook.com/Boerne-Police-Department-226485160740968>
- Brown, B. (2015, March 11). Is the media altering our perceptions of crime? Retrieved from <https://intpolicydigest.org/2015/03/11/is-the-media-altering-our-perceptions-of-crime/>
- Chapman, M. W. (2014, June 19). Gallup: Public confidence in tv news at all time low. Retrieved from <https://www.cnsnews.com/news/article/michael-w-chapman/gallup-public-confidence-tv-news-all-time-low>
- City of Boerne, Texas - City Hall. (2016, July 28). Message from the Mayor. In *Facebook* [Fan page]. Retrieved January 11, 2018 from <https://www.facebook.com/search/top/?q=Boerne%20Police%20DepartmentAn%20Open%20Letter%20to%20the%20Citizens%20of%20Boerne>
- Dowler, K. (2003). Media consumption and public attitudes toward crime and justice: The relationship between fear of crime, punitive attitudes, and perceived police effectiveness. *Journal of Criminal Justice and Popular Culture*, 10(2), 109-126.
- Goode, J. (2016, July 22). Man tazed after refusing to leave his car. *Boerne Star*. Retrieved from [http://www.boernestar.com/news/article\\_46d50c7a-5034-11e6-8d5d-479fc7018dbd.html](http://www.boernestar.com/news/article_46d50c7a-5034-11e6-8d5d-479fc7018dbd.html)
- Marcou, D. (2010, February 24). Media strategies following use-of-force incidents. Retrieved from <https://www.policeone.com/officer-shootings/articles/2009233--Media-strategies-following-use-of-force-incidents/>

Morales, P. (2016). *B1607020* (Rep. No. B1607020). Boerne, TX: Boerne Police Department.

Nix, J., & Pickett, J. T. (2017, July-August). Third-person perceptions, hostile media effects, and policing: Developing a theoretical framework for assessing the Ferguson effect. *Journal of Criminal Justice*, 51, 24-33.  
doi:10.1016/j.jcrimjus.2017.05.016

Open Government. (n.d.). Retrieved January 11, 2018, from  
<https://www.texasattorneygeneral.gov/og/open-government>

Penshorn, M. (2013). Transparency in law enforcement. Huntsville, TX: The Bill Blackwood Law Enforcement Management Institute of Texas.

Rose, C., & Beck, V. (2016). Eyewitness accounts: false facts, false memories, and false identification. *Journal of Crime and Justice*, 39(2), 243-263.  
doi:10.1080/0735648x.2014.940999

Simons, D. J., & Chabris, C. F. (2011, August 3). What people believe about how memory works. *PLoS ONE*, 6(8), 1-7. doi:10.1371/journal.pone.0022757

Singh, A. (2017, December 5). Prolepticon: Anticipatory citizen surveillance of the police. Retrieved from <https://ojs.library.queensu.ca/index.php/surveillance-and-society/article/view/6418>

Society of Professional Journalists Code of Ethics. (2014, September 6). Retrieved from <https://www.spj.org/ethicscode.asp>

This day in history: June 01, 1980: CNN launches. (n.d.). Retrieved January 11, 2018, from <http://www.history.com/this-day-in-history/cnn-launches>

U.S. Department of Justice. (2015, March 4). Department Of Justice report regarding the criminal investigation into the shooting death of Michael Brown by Ferguson, Missouri police officer Darren Wilson. Retrieved from [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj\\_report\\_on\\_shooting\\_of\\_michael\\_brown\\_1.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown_1.pdf)