

British Society of Criminology

The British Criminology Conference: Selected Proceedings. Volume 5.
Papers from the British Society of Criminology Conference, Keele, July 2002.
This volume published August 2003. Editor: Roger Tarling. ISSN 1464-4088.
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The Thin Blurred Line: Reality Television and Policing

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Abstract

Factual, fictional and factional representations of policing are, for a large proportion of the British public, the most significant source of information concerning law and order. In recent years there has been a blurring of the boundaries between these three media depictions of policing. The growth of faction or infotainment, through the hybridisation of factual programming, in particular, has significant implications for media constructed images of policing.

This paper seeks to explore three aspects of such police depictions. Firstly, the construction of a police reality through reality television shows such as *Police, Camera, Action!* and the US show *COPS* in which police-media relations collude to produce a unified crime fighter image of policing. Secondly, the legal implications of using police and surveillance footage without suspects permission. In particular, the potential breaches of the *Contempt of Court Act* 1981 and questions of breach of privacy under *Human Rights Act* 1998 and the common law.

Thirdly, some theoretical perspectives are proposed on the use of surveillance footage. The CCTV footage in reality police shows suggest a further development of Foucault's account of panopticism as proposed by Lyon, Haggerty & Ericson and Armstrong among others. Matthiesen's work on the synopticon and the consequent impact on police accountability is also discussed.

Introduction

Successive sweeps of the British Crime Survey reveal that the public are unacquainted with numerous aspects of the criminal justice system ([Chapman et al, 2002](#)) and rely on the media for their information. Levenson ([2001](#)) notes that the Survey reports just 6% of the public consider their principal source of information to be inaccurate. Factual, fictional and factional representations of media representations of policing are then a crucial, and for a great many citizens, probably the sole influence in shaping their perceptions and opinions about criminality and community safety and criminal justice. In a media democracy, where soundbites and spin are the core characteristics of media output across the ever-blurring boundaries between factual news, news-responsive drama, and reality TV, Reiner's comments that 'policing in Great Britain has always been as much a matter of image as of substance' ([Reiner 1994](#):11) have never been more pertinent.

Recently, fictional narratives about policing issues have arguably become more complex and challenging. Latterly, it has been the police infotainment programme that has provided the certainties of arrest and police propriety rather than the police drama. George Dixon's monologue beneath the blue hue of the police lamp has now been replaced by CCTV footage

of the suspect bundled into the back of a police patrol car as the embodiment of uncomplicated 'bite-sized' justice for the mass audiences of the *MTV* generation.

While representations of policing may be delineated into factual, fictional and factional forms, increasingly there exists a blurring of boundaries across these domains. The increased professionalisation of police-media relations mean the provision of advice for the makers of films, documentaries and even soap operas is commonplace ([Leishman and Mason 2003](#)).

The centrality of policing as a staple of media culture is evident too in the escalation of 'experts', pundits and consultants who now speak about and for policing issues on the media across the three media forms of fact, fiction and faction. For example, former Deputy Chief Constable of Greater Manchester, John Stalker regularly comments on both real and reconstructed police investigations; Nick Ross, the presenter of criminal appeals programme *Crimewatch UK* has advised the Home Office on crime prevention; and the recently inaugurated Jill Dando Institute for Crime Science at University College, London, was named after Ross's former co-presenter who was murdered in 1999. Roger Graef, a documentary film-maker who was responsible for the 1981 fly-on-the wall documentary about Thames Valley Police is now a commentator and writer on a whole range of criminal justice matters.

Smudging the thin blue line of media images of policing is no more evident than in factional programming: infotainment shows that use surveillance footage and fly on the wall camerawork to follow police officers. This paper will briefly explore some of the key issues that have arisen from this form of television. Specifically, the media construction of a reality of policing; secondly, legal questions pertaining to both privacy and contempt of court; and thirdly and perhaps more broadly, some comments are offered on the question of surveillance and Foucauldian notions of panoptics.

Police, Camera: Faction?

- There has been a rapid growth in media and internet technology and these advances, in digital media in particular, that have altered the face of factual programming, in which there has been an increased 'hybridisation' of the documentary. The terms 'documentary drama', 'drama-documentary', 'infotainment', and 'faction' have all been used to describe predominantly factual programmes with dramatic, reconstructive elements. Germaine Greer has commented that 'Reality television is not the end of civilisation as we know it: it *is* civilisation as we know it. It is popular culture at its most popular' ([Greer 2001:1](#)). The further blurring of traditional televisual tropes, this time of documentary, soap opera and fiction has predominantly taken three broad forms: The docu-soap, in which the audience watch the weekly exploits of a particular group of people: for example shop assistants (*Lakesiders*), people on holiday (*Ibiza Uncovered*, *Caribbean Uncovered*), learner drivers (*Driving School*) or residents of a particular area (*Paddington Green*).
- 'Biovision': game shows in which volunteers are put in artificial living environments and required to carry out tasks, the most popular and earliest form in Britain being *Big Brother*. Since the phenomenal success of the first series in 2000, a flood of imitations has appeared: *Survivor*, *The Mole*, *Temptation Island*, and *I'm A Celebrity Get Me Out of Here..!* among them.
- Reality television programmes that follow the emergency and rescue services, including *999*, *Police, Camera, Action!*, *Children's Hospital*, *Jimmy's* and several imported shows from the United States including *Cops* and *America's Most Wanted*.

It is this third category of reality television that concerns us here, in particular those programmes that either use surveillance footage from closed circuit television or police cameras and the fly on the wall documentary about police work, sometimes referred to as the 'media ride-along'.

Advances in production and filming techniques have been responsible for the changing face of crime programmes before. The police drama has changed dramatically since the static, cosy world of *Dixon of Dock Green* was first broadcast in 1956. In the 1960s, *Z-Cars* injected pace and authenticity into the police drama with its six cameras, back projections and outside recording. The fly-on-the-wall techniques used in the Roger Graef documentary *Police*, and in *The Bill* since the early 1980s and taken to their extreme in *The Cops* in the late 1990s have altered visual representations of law enforcement ([Leishman and Mason 2003](#)). Similarly, it

was the development of lightweight cameras and synchronised sound recording that significantly aided the development of reality television. Fetveit (1999) notes that the reality television show relies on three types of visual evidence, 'authentic footage from camera crews observing arrests or rescue operations; footage from surveillance videos and recordings (often by amateurs) of dramatic accidents and dangerous situations' (Fetveit 1999:792). The reality police show is predominantly shot using camera crews and surveillance videos. These series originated in the United States in the late 1980s, where programmes such as *Rescue 911*, *Real Life Heroes* and *On Screen: Emergency Rescue* were developed by the major networks, CBS and Fox (Kilborn 1994:426). One of the earliest examples on British television was *Police, Camera, Action!* in 1994 in which police surveillance footage taken from patrol cars and helicopters is broadcast anchored by ex-ITN news reader Alistair Stewart. The series justifies its existence by stressing its safety message:

(*Police, Camera, Action!*) captures on camera moments of motoring madness and has earned plaudits from police and drivers alike for its powerful safety message...There's a chance to see the latest police technology in action and reckless drivers caught on camera &182;<http://www.carlontv.co.uk/data/policecameraaction> - accessed 12.5.02

Since the success of the programme (the series has been nominated for the Lew Grade Award in 1999 and has run for seven years) other programmes have evolved that are also concerned with the work of the police. These include Carlton Television's *Blues and Twos* that used miniature cameras placed on the uniforms of rescue crews; in November 1995 a two-hour live programme following four police forces around the country called *Police Action Live* and most recently, a similar format was used for *Police 2001*.

Despite their justifications of public interest, the reality police show has encountered considerable criticism, suggesting that this form of television is about:

'maximising ratings whilst minimising production costs. And they do so by pandering to the oldest and most disreputable traits in human nature - the desire to gawp at other people's misfortune' (cited in Hill (2000)).

The Independent Television Commission considered real crime programmes to be "very patchy indeed" and "a bit tacky" (*The Independent* 25th April 1996). Similarly, the Broadcast Standards Council in its Annual Report in 1996 reported an increase in the number of complaints about both *Police, Camera, Action!* and *Blues and Twos*. In June 1996, the Council upheld a complaint against *Blues and Twos* for screening footage of an 82 year-old woman and her 85 year-old husband after a road crash (*The Times* 10th July 1996). As well as these ethical concerns, there are questions about reality programming contributing to the decline in broadcasting standards and the increase in tabloid television:

Whether earnestly serving the public interest or cheekily amusing the public, it (television) is engaged in a drip-drip erosion of codes of fair dealing and consent which were framed before the camcorder revolution and the arrival of the micro camera (Dugdale in Kilborn 1994:436).

While infotainment programmes such as *Police, Camera, Action!* and *The World's Dumbest Criminals* rely on surveillance footage, perhaps the most important development has been the media ride-along. These programmes, mostly imported from the United States, are based around cameras that follow the police in and out of their patrol car. The footage is bumpy and chaotic where 'the white noise from police radios and accidental environmental sounds testifies to the authenticity of recordings' (Fetveit 1999:792). Chase, arrest and accompanying interviews with the victim are all essential elements for the cop show ride-along. These are accompanied by slow motion, oft-repeated sequences and dramatic voice-over. Fetveit comments that it is 'the audio-visual evidence as much as the story' (Fetveit 1999:794) which is a distinguishing feature of this form of reality television.

Such shows represent a shift in the traditional form of documentary, blurring the lines between fact and fiction. Holland (1996) suggests that the notion of the documentary to inform, and be primarily concerned with quality rather than audience size has been replaced by the documentary as 'television's prime dramatic medium, targeting moments of conflict and crisis' (Holland 1996:23). Corner (2000) too, argues that these programmes represent a new further function of the documentary: documentary as diversion:

Propagandist, expositional or analytic goals are exchanged for modes of intensive or relaxed diversion - the primary viewing activity is on looking and overhearing, perhaps aligned to events by intermittent commentary. (Corner 2000:2)

Like Holland, he suggests that traditional forms of documentary: journalistic inquiry and radical interrogation, have been readdressed by a post-documentary format that borrows from

the advertisement, drama and pop video to be 'strategically designed for the television marketplace' ([Corner 2000:4](#)).

That's Infotainment: Constructing a Policing Reality

Central to the genre of reality police shows is the relationship between the police and the media. The use of hand-held cameras and the absence of a voice-over in the media ride-along gives an impression of the "real". However '[M]asquerading as reality, these selected sequences drawn from the immediacy of live events form nothing more than stories' ([Andersen 1994:8](#)). The reality television cop show is another constructed representation of the police, just like *The Bill* or *The Vice*, where the narrative structure of events is determined by the producer not the police officer. Chase and arrest are edited to produce an exhilarating experience for the viewer. The journey begins and ends in the patrol car with the officers, a neat circular frame on which the action can be hung.

Say what you like, *Police, Camera, Action!* is 100 percent true real life...where every police driver shows perfect judgement and every car thief is a crap navigator who immediately turns down a cul-de-sac ([Hamilton 1998](#)).

Reality television cannot then be treated as such, 'The situations are contrived and the protagonists are handpicked' ([Greer 2001:2](#)). In a content analysis of reality based police shows, Oliver (1994) found that violent crime was 'over represented' with 87% of criminal suspects being associated with violent crime compared with 1991 FBI statistics of 13% of crimes indexed as violent. Clear-up rates were also significantly higher, with 61.5% cleared in the television shows compared with 18% in FBI statistics. Notwithstanding the well-documented difficulties with content analyses as a research methodology (see for example [Sparks 1987](#), [Barker 1988](#), [Winston 1990](#)) Oliver's findings underline the modifications and alterations made in reality shows.

It is perhaps the simplification and de-contextualising of events that is potentially the most troublesome. In what he terms the 'news imperatives of journalism', Chibnall ([1977](#)) discusses the simplification of crime news into a morality tale of good versus evil. Barak ([1994](#)) notes that '(T)he broader systematic relations of social problems are also ignored, although the symptoms are bemoaned' ([Barak 1994:143](#)) in reality-based police shows. No more is this true than in relation to drug-related crime as Andersen ([1994](#)) illustrates in examining an episode of the US show *Night Beat*. A white officer wrestles a black suspect to the ground following a daring chase and flying leap to apprehend the suspect: 'The cop presents his young trophy to the camera with his arm around the suspect's neck' ([Andersen 1994:10](#)). Following comments by the reporter about high school football and the physical prowess of the arresting officer, remarks are made about the streets being a little safer. The suspect was found in possession of cocaine with a street value of just \$20. It is interesting to note that the United States National Drug Control Strategy has concentrated more than 70% of resources on law enforcement at street level.

This example illustrates the problems of reality television police series. What purports to be reality is a mediated representation of such, an accusation levelled against another area of the criminal justice process, electronic broadcast coverage of court proceedings: 'Their tools will be imagination and analysis, distortion and dramatization, comment and comparison' Mauro ([1994:12](#)). Further evidence of the tinkering with actual events has been well documented by the printed press: a reporter in the United States discovered that the police officers on the media ride-along show *American Detective* were asked by producers to repeat particular lines and were encouraged to play to the camera ([Andersen 1994:10](#)).

If one is to accept that television will alter police events to suit their own ratings-driven agenda, the aim, nature and role of police cooperation in making such programmes must be examined. In fiction police officers have been represented as heroic crime-fighters, from the days of *Dixon of Dock Green* to *The Cops* ([Hurd 1981](#); [Leishman and Mason 2003](#); [Mason 1991](#); [Mawby 1997](#); [Reiner 1981](#), [1994](#), [1999](#), [2000](#); [Sparks 1992](#)) and this has continued with reality television police shows. However, the images of the police constructed by these programmes are that of a homogenous team, 'an abstract form of heroic consistency' ([Fishman 1999:273](#)) in which the crime fighter is interchangeable, a member of the team not an individual. However, the police have taken on a high media profile in recent years following several damaging reports alleging, among other things, institutional racism ([McPherson 1999](#)). Since the early 1990s there have been increasing steps taken by the police in

controlling their media image, including the use of media professionals ([Mawby 2001](#)). This seems to extend to the role of the police in reality TV, in which the image created may also be managed. Mawby ([2001](#)) notes how the language of police media relations centres on 'openness'. It is such an approach that constructs a trope equating policing with crime fighting, so prevalent an image in reality police shows. Andersen ([1994](#)) talks more of the media's collusion, suggesting reality police shows 'are actually little more than products of the media's over reliance on the entertainment value of the law enforcement establishment' ([Andersen 1994:9](#)), failing to take a critical stance of the work of the police on the streets.

Reality Television: Held in Contempt?

Further concerns about the police relationship with the media relate to the suspects, witnesses, victims and defendants filmed in these programmes. Reality police shows impinge upon two particular areas: contempt of court and privacy.

Under the *Contempt of Court Act* 1981, reporting restrictions are placed upon the media if the publication creates a substantial risk of serious prejudice or impediment to particular proceedings and the proceedings are active. In practice, contempt proceedings are brought against the media where guilt or innocence has been suggested either before or during the trial. Recent examples include the collapse of the criminal trial of Leeds United footballers Lee Bowyer and Jonathan Woodgate in April 2001 following *The Sunday Mirror's* interview with the victim's father who suggested the alleged assault was racially motivated. In the murder trial of Harold Shipman in 2000 a local radio DJ, Mark Kaye and his traffic reporter, Judith Vause escaped a prison sentence for contempt of court after Kaye said on air that Shipman was "innocent until proved guilty as sin" while Vause chanted "guilty, guilty" (*The Times* 12th February 2000).

Reality-based police shows that reveal the identities of arrested suspects have the potential for creating a substantial risk of prejudice to the trial. If a programme broadcasts footage of a suspect being arrested, then an audience may infer guilt. This is particularly true, if we consider the excision of most of the criminal justice process in police drama. A police drama-literate audience, brought up with programmes like *The Sweeney* are used to the phrase "your nicked" equating to prison for the suspect. The moment of apprehension itself signifies the conviction of the criminal, for in police drama: 'it is not in the courts that convictions are obtained but in the face-to-face world of police and villains' ([Hurd 1981:57](#)). Given the potential for such an inference of guilt, defendants whose arrest has been broadcast on a media ride-along may appeal on the grounds that the footage has prejudiced their trial. The live police documentary *Police Action Live!* broadcast by ITV in November 1995 raised such concerns: 'the media is taking more risks than ever before in transgressing the line that separates acceptable information from prejudicial material' ([Berlins 2000:63](#)).

Potentially, Article Six of *The Human Rights Act 1998* introduced further restrictions on the media. It states '...everyone is entitled to a fair and public hearing...by an independent and impartial tribunal' (*Human Rights Act 1998*, Article 6 (1)). Although there have been appeals based on Article 6, most notably Jon Venables and John Thompson in the James Bulger murder case, none were concerned primarily with the media's handling of their respective hearings. However, the suspect in the reality police show has now the *Contempt of Court Act* 1981 and *The Human Rights Act 1998* to use in an appeal concerning the prejudicing of their trial.

It is not only the potential for reality television police shows to prejudice legal proceedings that conflict with the law. The conduct of the media and the consequent invasions of privacy have also raised legal questions. In 1997, *The Independent* reported on a woman who had been filmed for the London Weekend Television series *Crime Monthly* without her permission ([Wynn-Jones 1997:6](#)). This was one of several cases the civil liberty pressure group Liberty have fought on behalf of individuals who have been filmed and broadcast without their consent. In January 2003, The European Court of Human Rights awarded Geoff Peck 000 after upholding his right to privacy had been breached, after CCTV footage of his attempted suicide was broadcast on television (*The Times* 18th March 2003:8).

Until *The Human Rights Act 1998* there was no protection of privacy under English law, merely legislation that could be adapted, such as trespass, *The Protection From Harassment Act 1997* and the *Interception of Communications Act 1985*. Article Eight of *The Human Rights Act 1998* offers protection 'for private and family life' and has been successfully used,

after appeal by Catherine Zeta Jones and Michael Douglas in suing *Hello!* magazine for using unsolicited pictures of their wedding in December 2000.

In the United States, a case has been brought under the Fourth Amendment of the US Constitution that protects an individual's right to privacy in their own home. In May 1999, the United States Supreme Court ruled that a reporter and photographer from the *Washington Post* had violated Charles and Geraldine Wilson's Fourth Amendment right by accompanying the police during the execution of an arrest warrant (*Wilson et al v Layne, Deputy United States Marshall* May 24 1999). This decision also upheld the Ninth Circuit court's judgement in the case of *Berger v. Hanlon, et al* (129 F.3d 505 9th Cir. 1997) which held that a CNN camera crew filming an authorised search of a ranch by the Fish and Wildlife Service violated the Fourth Amendment. This has had significant implications for media corporations such as Fox, the network that broadcasts *Cops*, an Emmy award-winning reality television police show ([Biafora & Costello 1999](#)). To avoid a similar ruling, shows such as *Cops* will have to get permission from homeowners before the police search or arrest; a totally impractical task in the circumstances.

The Supreme Court decision is the first sign of the reinstatement of suspects and victims rights against the reality TV show. There is a feeling among commentators that these shows simply trample over individuals' rights in the name of entertainment:

Constitutional assumptions about due process and civil liberties, such as protections against unwarranted search and seizure and the presumption of innocence, are antithetical to the crime-tabloid formula, which does not conceal its approval of the abuse of police power. ([Andersen 1994](#):13).

This is perhaps the clearest example of the blurring of the lines between fact and fiction. The heroic cop is justified in bending the rules in the fictional world of the police drama. Corruption in a noble cause, allows him or her to continue fighting to clean the streets of crime and protect the public. When we shift to fact-based entertainment: the more nebulous realm of the reality police show, the audience is presented with similar but less grand examples of rules being broken. In adopting the tone of police fiction, the media conspire in such rule-breaking, enabling transgressions of the law to be justified in the same way as they are in police drama: namely the villain is caught, justice is done and the public are served:

Cops unites portrayals of state-sanctioned violence and a highly effective law enforcement agency hereby violence against suspects symbolically reinforces the social power and status of the official institution ([Fishman 1999](#):281).

The public however is not served. Suspects' rights are eroded, cheered on by the reality cop show. It is not only the erosion of due process, witnessed by cameras and explained away by programme makers as a necessity of justice that is problematic, but the media's loss of independence in moving from an observer to an active protagonist in these shows. As Andersen's US drug policy example illustrates, this 'post-documentary' ([Corner 2000](#)) form may be influencing criminal justice policy and shaping police practice.

Conclusion: CCTV and the Synoptic

The growth of reality television can be explained on one level by its popularity. It is the case in all forms of entertainment that a successful film, documentary or drama will be copied. The appeal of programmes like *Police, Camera, Action* partially lies in the use of CCTV and police camera footage to show justice in action. This paper concludes by exploring the use of surveillance and police footage in infotainment programming and providing some tentative theoretical context and observations.

The rise of CCTV and police cameras, it is argued (Lyon ([1993 & 2001](#)); Matthiesen ([1997](#)), Norris & Armstrong ([1999](#)) and Haggerty and Ericson ([2000](#))) contain panoptic elements: a system of generalised surveillance, based on Bentham's eighteenth century prison design, where : 'visibility is a trap' ([Foucault 1979](#):200). Writers such as Gandy ([1989](#)) and Gordon ([1986](#)) have suggested that modern surveillance constitutes an 'electronic panopticon' in which the CCTV cameras in city centres and computer databases of personal information create an invisible gaze across all aspects of our lives. Poster ([1997](#)) argues there now exists a 'superpanopticon' in which the interdependency of computer databases create what Haggerty & Ericson describe as a 'data double' of ourselves ([Haggerty & Ericson 2001](#):625). These allow government agencies and big business to trace behavioural patterns and trends through analysis of our data doubles, shorn of all unnecessary personality traits.

A further development has been Mathiesen's work on the notion of the synopticon ([Mathiesen 1997](#)): a sharing of public images where everybody is watching everybody else. Haggerty and Ericson ([2001](#)) point out that 'the monitoring of the powerful has been eased by the proliferation of relatively inexpensive video cameras'. The human rights pressure group Witness, issue people with such cameras in order to film human rights abuses. In July 2001 in Britain, a student captured on his video camera two police officers beating a suspect (*The Guardian* 25th July 2001). In 2001, the synoptic power of the public was very visible at the anti-capitalism demonstration riots at Genoa in July 2001 where Italian police were seen beating peaceful protesters with batons (*The Guardian* 27th July 2001). Furthermore, CCTV cameras filmed two police officers in England beating a suspect on a deserted street. PC's Barry Vardon and Steve Watson were convicted of assault and sentenced 3 months in prison (*The Independent* 12th December 2000). Are we perhaps seeing the reversal of the panoptic power the police can exert using CCTV, replaced with the synoptic power of the video camera? Research by Ericson and Haggerty ([1997](#)), [Norris and Armstrong 1999](#), and Goid ([2003](#)) suggest that the use of public surveillance technology like CCTV raises a number questions concerning police accountability and discretion. As Goid ([2003](#)) points out, Bentham's Panopticon enabled scrutiny of guards as well as inmates.

The panoptic and synoptic both induce a further development. That of a desire to be watched. Where Bentham's Panopticon was designed for power over the individual, inducing fear and conformity, in the 21st Century, to be watched provokes a positive as well as negative response. The architect of a New York restaurant that incorporates CCTV as part of its design argues that "yesterday we were nervous that we were being watched. Today we're nervous that we're not being watched" Elizabeth Diller (*A History of Surveillance*, Channel 4, 12th August 2001).

This exhibitionism is, in part perhaps, a response to the ubiquity of surveillance: an opportunity to reflect back on the watcher and take some control back. One thing reality television has shown is that we are a nation not only of voyeurs but also of exhibitionists. In February 2002, a seventeen-year-old boy was found not guilty of the murder of ten-year-old Damilola Taylor. The prosecution's key witness, a fourteen year old girl, known only as 'Bromley' had her evidence dismissed by the trial judge following the admissibility in court of a video taped interview with the girl where she was seen discussing the 000 reward. She was described by the defending QC, Baroness Mallalieu as 'an attention seeker' (BBC News Online, 27th February 2002).

Does this increasing desire to be seen extend to the police? We have already seen how the police carefully manage their image but we have also seen how unreal, reality television is. If we accept the rise of the synoptic, the inevitable surveillance of the surveillor, then the police are bound to attempt to mould their image and increase the opportunity for positive messages about their work. As Greer points out: '...it is always the case that although people who volunteer for reality show may be exhibitionists, someone who is careful to remain unwatched is pulling their strings' ([Greer 2001:1](#)).

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