

LAPD

Club Member Saves the Day

With intrepid skill, police work and timing, Police Dept. Forensic Video Analyst Jim Hoerricks, Club Member, saves the reputation of two officers.

The following is an edited version of a column by Gary Ingemunson, attorney, from the March issue of the Los Angeles Police Protective League's Thin Blue Line newsletter. —Ed.

The officers were lucky. Very lucky. It hadn't started out that way. The captain had called them in and told them Internal Affairs was en route. "You'd better get a rep," she advised.

It had all started a few months before. It was a routine traffic stop. No license plates and tinted windows. The stop led to the recovery of a gun. Unfortunately for the driver, he was an ex-con who was allegedly a gang member. No guns allowed. An arrest was made and a hearing in court eventually followed.

The hearing in court was routine, too. The officers were called to the stand and testified to the probable cause of a vehicle being driven on the streets with no plates, then discovery of the gun and the subsequent arrest. Then things started to change. Suddenly, the defense attorney produced a videotape that, he said, would prove the officers had testified falsely. The deputy district attorney objected to this last-minute evidence and demanded to review it.

The assignment of this particular deputy district attorney to this case was the first stroke of luck for these officers. She was an aggressive prosecutor and brooked no nonsense from defense attorneys. She was also ex-LAPD. When it came to police work, she had been there and done that. To her, this surprise video stunk to high heaven.

The video was copied and the defense attorney ... had a date with Fox-11 news. His interview was televised that night.

"The cops lied. Clearly," he told Fox-11 news, as they played a supposedly "enhanced" copy of the video, which clearly showed a license plate on the car. "I have been practicing 42 years, criminal law, and this is the first time in 42 years that I have a videotape that shows the police lied," the defense attorney told the camera and the nation. And he had more, the reporter stated. [The news] cut back to the defense attorney, who said, "My client denies he had any knowledge of that gun in his car, and we think it could have been planted by the police." Then the reporter stated that the suspect had been so harassed by the LAPD that he was fed up and was going to move his business elsewhere.

The defense attorney jumped straight from trial by court to trial by media, and the media was more than happy to play. So was the deputy district attorney. It was after-hours, and she began calling all over the City, looking for an expert to examine the video before court resumed the next day. Many would have said it was an impossible task. Difficult maybe, but not impossible when you have dedicated people working for the Department. The officers' luck

held when this dedicated deputy district attorney was put in touch with [Jim Hoerricks], a dedicated employee assigned to LAPD's forensic video lab. The video analyst was called at home at night by the deputy district attorney, who explained the need for speed in analyzing the video. The analyst agreed to meet the deputy district attorney at the lab early in the morning before his watch to perform an analysis.

In the early hours of the morning, the deputy district attorney, video in hand, met with [Hoerricks] at his lab. For the next several hours, the analyst did his work. The video had been falsified and he could prove it. They took the information to court, where a camera crew

and when the dust settles he will prove that his client was the victim of LAPD misconduct."

Two weeks later, the hearing resumed. The cameras were in court. The defense attorney called his expert witness. The expert had no training in forensic video examination. He testified that he had not "enhanced" the video, but had located another file on the security system that had been shot by another camera. So the enhanced video was not enhanced, but a different camera shooting at the same time. The defendant then took the stand and said that he received the video from the expert, but did not have time to talk to him. Therefore, he had assumed the video had been enhanced.

Regardless, enhanced or different camera shooting at the same time, it "proved" that he had a license plate on the car.

The next day it was [Hoerrick's] turn. His expertise in forensic video training was impressive, and he was the author of a textbook used by analysts worldwide in video forensics. In laymen's turns, he clearly laid out all of the reasons that the video was not authentic — and he had a lot of them. The defense attorney tried to effectively cross-examine the analyst, but the answer to every question only made things look worse for the defendant. In the analyst's opinion, the so-called enhanced video was a re-enactment after the fact with a clumsily changed file date.

The defense attorney demanded the court provide a transcript of the analyst's testimony so he could have another expert (who presumably this time would have a forensics background) examine the analyst's opinion and provide rebuttal evidence.

The court granted his request. The hearing was continued for six weeks.

The big day arrived. The defense attorney and his expert met with the deputy district attorney in the hallway. No cameras were there. Too bad, because the defense attorney advised that he would stipulate that the video had been fabricated. Apparently, this time, he had retained a real expert.



LAPD Forensic Video Analyst Jim Hoerricks.



Jim Hoerricks' book, *Forensic Photoshop*.

was waiting to record the hearing. The suspect took the stand and the prosecutor and the defense attorney argued. The judge continued the hearing to listen to the experts. Fox-11 rehashed the story that night and aired the prosecutor's allegation that the tape was false, but the story ended with the reporter stating the defense attorney had told them that "questions about the videotape would be cleared up soon,

The hearing began, and the defense attorney admitted to the court that the video showing the license plate had been fabricated, but it was unknown who had done the fabrication. Others had access to the security system and certainly it hadn't been his client who had done this dastardly deed. Also, just because the car didn't have license plates on it, he said; the officers were still lying. The judge disagreed and the defendant's motion to exclude the gun was denied.

I said the officers were lucky. It might seem to be a strange thing to say since the officers had been publicly accused of committing perjury on television and had to live under that allegation for over two months. But they are lucky. What if there had been no aggressive deputy district attorney willing to work overtime, diligently demanding the system listen to her? What if there had been no analyst willing to answer his phone after-hours and willing to come in early for an unscheduled examination of evidence just because it was the right thing to do? What if everyone had jumped on the "LAPD is always guilty" bandwagon, as has happened so many times in the past, instead of examining the evidence? What then? No one would believe the officers. Their careers would be in ruins. It has happened before. So, I say again, they were lucky.

And the sad thing is that something like this should not have to rely on luck.

We owe thanks to Deputy District Attorney and former-LAPD officer Deann McCarthy. Thank you for having faith in our officers and the gumption to fight the good fight. We also owe thanks to SID Forensic Video Analyst Jim Hoerricks, both for his dedication and for his skill, not to mention his ability to communicate difficult concepts in layman's language. His book, *Forensic Photoshop*, highlights this ability. Everything you need to know about imaging analysis is on his Website at www.forensicphotoshopbook.com

The moral of the story is that not only can you not believe everything you hear, you also cannot believe everything you see.

Club Member Jim Hoerricks tells Alive! that the case against the driver allegedly in possession of a gun illegally continues.

Great going, Jim! Your dept. is indebted to your hard work and skill, to save the reputation of two officers — and the department as a whole. —Ed.

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