Episode Book

EPISODE #5790

Police Auditors: Rights, Rage, and the Camera

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SYNOPSIS

Self-described First Amendment auditors film police stations, town halls, and libraries, waiting for a uniformed reaction that becomes the video. Seven federal circuits recognize a right to film police in public — but that's not the absolutist shield many auditors claim, and the public forum doctrine changes everything inside a building. This episode traces the subculture from Diop Kamau's 1980s undercover audits to SeanPaul Reyes's million-subscriber channel, examines how departments like Santa Barbara PD now train officers to be boring back, and asks the question nobody has answered empirically: does any of this actually improve accountability?

TRANSCRIPT



Corn

I was going to talk about something normal today. I had a whole thing about how you can't buy a decent pair of scissors anymore. Then Daniel sent this.



Herman

Scissors would have been a shorter episode.



Corn

Instead, Daniel has been falling down a YouTube hole. He found this subculture of people who call themselves police auditors, or First Amendment auditors. Self-appointed, most of them. They film outside police stations, government buildings, town halls, sometimes inside the buildings. They stand there with a camera until somebody in a uniform comes out and asks them what they're doing, and then the argument starts. And that argument gets uploaded. A lot of them have been doing it for years.



Herman

Right.



Corn

He's not asking about the real thing. Not independent oversight boards, not consent decrees, not institutional police auditing, which is a different world with subpoenas and lawyers. He's asking about the YouTube version. The one that sits somewhere between civil liberties activism, vigilantism, performance art, and a business model. Where did it come from. Who are the big names. What's the actual legal basis, especially the First Amendment side. And then the part he keeps circling back to. How much of this is sincere, and how much of it is a confrontation manufactured for an audience.



Herman

And that last part is the whole thing, isn't it. Because the two halves don't separate. You can't answer the sincerity question without the incentive structure, and you can't understand the incentive structure without the law.



Corn

Start with the law, then. What is the actual right here. Because I've heard these guys talk like it's absolute, and I don't think it is.



Herman

It's not absolute, and the interesting thing is that the Supreme Court has never squarely decided the question. There is no great Supreme Court holding saying you have a right to film the police. What you have instead is a patchwork of circuits that have decided it individually, and they mostly agree.



Corn

Seven of them.



Herman

Seven federal circuits have recognized a constitutionally protected right to film police officers in public. Glik v. Cunniffe out of the First Circuit in twenty eleven is the one everyone quotes. A citizen's right to film government officials, including law enforcement officers, in the discharge of their duties in a public space is a basic, vital, and well-established liberty safeguarded by the First Amendment. That's the language.



Corn

That's broader than filming police. That's filming government officials generally.



Herman

And that's the crack in the whole thing, because that's the sentence auditors carry around like a passport. But the holding was about a man filming police on a public street. Those seven circuits, Glik, Fields, Turner, ACLU of Illinois against Alvarez, Askins, Irizarry, Toole, they're almost all about police in public. That's the ground that's been fought over and mostly settled. The ground inside a building is a different country.



Corn

Because of the public forum doctrine.



Herman

Because of the public forum doctrine, and because of time, place and manner restrictions. The government can impose content-neutral rules about when and where you can record, as long as they're not aimed at what you're saying. So an auditor saying the First Amendment makes me untouchable anywhere, any time, in any building, is ignoring about fifty years of doctrine. One of the law review pieces on this says the absolutist framing categorically ignores the nuances of First Amendment jurisprudence, which is the polite academic way of saying they're wrong.



Corn

Do they know they're wrong?



Herman

Some of them know exactly. That's part of the point.



Corn

Okay, so origins. Because Daniel wants to know where this came from, and I suspect the honest answer is that the modern version has almost nothing to do with the ancestor.



Herman

Almost nothing. The ancestor is Diop Kamau, born Don Jackson, a California police sergeant. He starts doing this in the eighties. He founds PoliceAbuse.com, and his model is undercover. He sends operatives in with hidden cameras to audit police departments from the inside. Over a hundred cities invited his group in to run audits. And the California work led to legislation making falsified police reports a felony, which is real, durable accountability work. That's a statute on the books because of audits.



Corn

Hidden camera. Completely the opposite instinct.



Herman

Completely opposite. Kamau is hiding the camera so he can catch the misconduct. The modern auditor holds the camera up and tells you it's running, because the point isn't to catch anything. The point is to test the right itself. That's the inversion, and it's the whole genre in one move. The audit isn't the interaction. The audit is whether you're allowed to be here.



Corn

Which means an uneventful audit is a passing grade.



Herman

And a passing grade doesn't go viral. Hold that thought, because it's the engine under everything we're about to talk about.



Corn

Who are the names, though. Because Daniel asked for the personalities, and I want the ones that actually matter, not a list of channels.



Herman

The biggest is SeanPaul Reyes. Long Island Audit. He starts the channel in March twenty twenty-one. Former logistics director, lost his job in the pandemic, and the New York Post reported he raked in eight thousand dollars in his first month. By now he's around one point oh four million subscribers and over two thousand videos. He's the one who made the genre legible to a mainstream audience, and he's also the one who keeps ending up in court.



Corn

Which we'll get to.



Herman

Then there's Joshua Abrams up in Massachusetts, about a hundred and twenty-one thousand subscribers, calls it a full-time job. His record is a problem for the citizen journalist story, because he pleaded guilty in October twenty twenty to two counts each of unarmed robbery and witness intimidation and one count of armed assault to rob. That's not a parking ticket. His usual filming partner is Leonard Filipowski. Out in Arizona you've got Christopher Ruff, who films traffic stops and coaches motorists on their rights through the window.



Corn

And then there's the weird one.



Herman

There's Audit the Audit, which is the weird one and maybe the most interesting thing in the whole subculture. Two point nine eight million subscribers. Averages one point eight four million views a video. And what he does is take other people's audit videos and grade them. Both sides. Here's where the auditor was legally right, here's where the auditor was a jerk, here's where the officer was wrong, here's where the officer was within his authority. He's essentially running a law school seminar over other people's worst afternoons.



Corn

So the genre has a fact-checker.



Herman

The genre has an internal supreme court, and it's more popular than most of the people it judges.



Corn

Does that tell you something about the audience?



Herman

It tells me the audience isn't only there for the fight. If all people wanted was the shouting, they'd watch the shouting. They watch the guy who explains who was right. That's a different appetite.



Corn

Alright. Now the part I actually want to dig at. The police response, because Daniel asked specifically whether departments have adapted, and the answer is more interesting than cops yelling at cameras.



Herman

Departments have adapted, and some of the adaptation is quietly sensible. Santa Barbara PD put out a training bulletin in November twenty twenty-one, and it lists the playbook. Live-streaming, baiting officers, condescending demeanor, questioning laws. And then the recommendation to their own officers is, quote, Be Polite, Be Helpful, Be Friendly, Be Professional. Do not engage in a debate or argument, there is no winning an argument in this setting.



Corn

That's a department telling its officers to take the L in advance.



Herman

It's a department recognizing that the camera wins every argument. And the bulletin has a line in it about qualified immunity no longer applying to recording arrests, which is the legal reality that changed the calculus. The International Association of Chiefs of Police has an instructor's guide on public recording. San Francisco, San Diego, Richmond, San Jose all have First Amendment activity policies now. Even Securitas, the private security contractor, published best practices for its guards.



Corn

Which is the boring, correct answer to the whole thing. You train people.



Herman

You train people, and the training says be boring back. The auditors are hoping for a reaction. The counter is no reaction.



Corn

Except.



Herman

Except that assumes the auditor came for a reaction from the police. Sometimes the reaction comes from a librarian.



Corn

Right. Because here's what I keep coming back to, Herman. The police stations are the marquee location, but the volume of this stuff is town halls, libraries, health departments, DMVs. Public-facing clerical staff. People on fifteen dollars an hour whose job is to help somebody renew a permit.



Herman

And the Boston Globe did a piece in twenty twenty-three on exactly that. There's a line from a Massachusetts town about an employee who had to be sent home the day after an incident because they broke down under the nonstop phone calls. Nonstop phone calls. That's the part people don't picture. The video is the first shot. Then the audience finds the phone number.



Corn

That's not auditing. That's a mob with a mailing address.



Herman

Sandy Pooler, the town manager in Arlington, said, what this has to do with the First Amendment is not at all clear to me. And he's not being naive. He's watching somebody walk into a municipal office and say nasty, juvenile things to a clerk to get a rise out of her, and then call the video an audit of her compliance with the law.



Corn

The clerk doesn't have a compliance problem. She has a job.



Herman

She has a job, and the law she's being audited against has nothing to do with her desk.



Corn

So let me put the question plainly. Is any of this doing what it claims to do?



Herman

This is where I have to be honest with you, because I went looking and I could not find a real answer. There is no peer-reviewed empirical study measuring whether these audits improve police accountability. Not that I could find. The academic literature is legal and communication theory. You've got the Mississippi Law Journal piece, you've got Sean Leavey's work in communication and democracy, you've got a conference paper describing auditors as self-appointed constitutional educators. Theory. Not outcomes.



Corn

Nobody's measured it.



Herman

And here's the second thing. There's no organization to measure. Kristi Nickodem at UNC, who's studied this closely, said flatly that there doesn't seem to be an organized group behind it. No umbrella, no national body, no membership. It's a genre, not a movement. Which corrects one of the assumptions in how this gets talked about, the idea that there's



Herman (continued)

some coordinating hand.



Corn

So Daniel's framing, where he asks whether it's a subculture, is more accurate than calling it an activism campaign.



Herman

Much more accurate. It's a hundred-plus channels with a shared aesthetic and no shared leadership.



Corn

Then let's do the outcomes, because the law cuts both ways and I want to hear you say that.

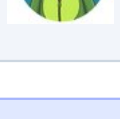


Herman

The law cuts both ways. Colorado Springs settled a wrongful detention suit for forty-one thousand dollars in twenty eighteen. Three Green Bay officers were disciplined after they tackled an auditor, also twenty eighteen. Arizona auditor Chauncey Hollingberry got five years of probation in twenty twenty-two for cyberstalking the attorney general's office, which is the flip side. And Arizona passed a law in twenty twenty-two barring recording within eight feet of police activity, which a federal court blocked with an injunction that September.

Corn

Eight feet. That number feels like somebody just picked a number.



Herman

Somebody picked a number in a legislature, which is how a lot of buffer zones get born and how a lot of them die.



Corn

And the Reyes cases.



Herman

Reyes is the live wire right now. In June, the New York Court of Appeals held that state and city right-to-record statutes do not create a right to record inside police stationhouses, including lobbies that are open to the public. The reasoning is privacy and safety, victims, witnesses, informants, undercover officers. That answered a question the Second Circuit had certified up to them in Reyes against the City of New York. Which is the state court, in effect, telling the federal court that the statute doesn't say what the auditor wants it to say.



Corn

And the criminal case.



Herman

September third, this year. Reyes found guilty of third-degree criminal trespass in Connecticut Superior Court in Danielson. This is over a July twenty twenty-five visit to the home of a Connecticut state police sergeant, Bryan Fahey, in Groton. Sentenced to a suspended ninety-day jail term, one year of probation, and standing criminal protective orders covering the Fahey family through twenty ninety-nine.



Corn

Twenty ninety-nine.



Herman

And the original charge list included voyeurism with malice, which was dismissed, and first-degree criminal trespass. He says he's going to appeal.



Corn

Can I say the thing.



Herman

Say the thing.



Corn

A man whose entire public identity is filming public officials in public spaces ended up at a police sergeant's house. That's not an audit. There's no counter at that address. There's no form to request. Nothing to test with a camera. That's just going to somebody's home.



Herman

And the court treated it as exactly that. That's the line the whole thing keeps approaching and occasionally crossing. Public official, public space, the law has your back. Public official, his own driveway, in front of his family, the law leaves you standing there by yourself.



Corn

What about the other arrests? Because I remember there was a mess in Suffolk County in June.



Herman

Reyes was arrested at the Suffolk County PBA headquarters in Brentwood, New York, in late June, after showing up in a billboard truck. The PBA president, Lou Civello, said Reyes was asked repeatedly to leave and later reported receiving death threats. The charge was dropped in July. And a Brevard County judge dismissed with prejudice his defamation suit against the mayor of Melbourne, Florida on June sixteenth. So within about a three-month window you've got a conviction, an arrest that evaporates, and a lawsuit thrown out. That's what the accountability picture actually looks like at street level. Dismissed, dropped, dismissed.



Corn

Wins and losses, no scoreboard.



Herman

And no scoreboard is the honest description. Which brings us back to where none of this can be measured.



Corn

Then take the other side of Daniel's question. The sincerity side. Because I want to be fair to these people, and I think fairness requires saying a thing out loud, which is that sometimes the auditor is right.



Herman

Sometimes the auditor is right, and the person who says it best is Bill Aleshire, an attorney and former county judge in Texas. He said the auditors are most valuable when they document and show the lawless, authoritarian behavior of some police officers. They're most divisive and least valuable when they themselves become nothing more than reality TV producers. And then he adds, I wish cops would learn to laugh at them.



Corn

Which is the Santa Barbara bulletin in one sentence.



Herman

Exactly the same instinct. Deflate it. Don't fight it.



Corn

But I'll go further than Aleshire. There is a category of case where the auditor is documenting a real abuse. An officer who says you can't film me, puts a hand on the camera, seizes a phone, arrests somebody for something that isn't a crime. Those cases exist. They get settled for forty-one thousand dollars in Colorado Springs because somebody in a uniform did something they weren't allowed to do.



Herman

And that's the part that keeps the genre morally alive, even when most of the product is junk. Every so often there's a genuine one. An eight-foot buffer law that a court has to block, a wrongful detention that a city has to pay for. The junk is riding on the legitimacy of the good ones.



Corn

And the junk has numbers. Nickodem again. Sometimes the escalation comes from the government employee. But often, the initial escalation or harassment is coming from the person who's filming.



Herman

That's the most balanced sentence anyone's said about it, and she got criticized from both directions for it.



Corn

What does the personnel record look like, though. Because Abrams, you said. Unarmed robbery, witness intimidation, armed assault to rob. That's not a guy who got a little heated at a town clerk.



Herman

That's a serious criminal history, and it's on the record. And it does something specific to the movement's self-image. The framing is citizen journalist, powerless person with a camera holding power accountable. When the person with the camera has a robbery conviction and a probation order, the frame bends. It doesn't necessarily make the underlying legal argument wrong. But it strips away the moral scaffolding.



Corn

Say it in plain terms. If the law is real, it's real whether or not the person invoking it is a scumbag.



Herman

That's the uncomfortable part. You have to hold both. The principle can be sound and the person can be rotten, and the movement can be right that this ruling protects everybody and still be a grift.



Corn

And that's before we get to the money.



Herman

The money is the machine. The audience wants confrontation. The algorithm rewards confrontation. Ad revenue and donations follow the audience. And so the incentive points, hard, away from the boring audit and toward the one where somebody loses their temper. If you run the audit and the officer says, sure, film whatever you like, and goes back inside, you have three hundred views and a dead video. If the officer grabs the camera, you have a career.



Corn

Eight thousand dollars in month one.



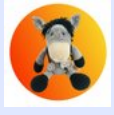
Herman

Eight thousand dollars in month one, and he wasn't the best. He was the earliest one who did it well.



Corn

So the design of the thing rewards the failure of the audit. The audit is meant to pass, the business rewards it failing, and there's no way to have both.



Herman

There's no way to have both, and that's the paradox Daniel was circling. It's not a bug. It's the whole architecture. An uneventful audit is a passing grade. A passing grade isn't content.



Corn

Is it ever sincere, though. Because I don't want to be the guy who says none of them mean it. Some of them clearly do.



Herman

I think the honest answer is that most of them start sincere and get captured by the economics, and a few stay sincere the whole way. And the ones who stay sincere post the boring videos too, which is why they stay small.



Corn

The sincere ones are the ones nobody's heard of.



Herman

That's not romantic. That's just the incentive structure working out loud.



Corn

And there's the line from the Freedom Forum. They compete with each other for views and money, which further incentivizes them to engage in highly confrontational behavior. That's a press freedom organization saying the competition itself turns the dial.



Herman

And Paul Bockelman in Amherst said it's a commentary on the deteriorating state of public discourse, and that it's sad. That's a town manager watching his staff get ground down by emails and calls because somebody got three hundred thousand views on a clerk.



Corn

So you've got the ACLU-adjacent legal armor on one side, town managers going sad and quiet on the other side, and Audit the Audit in the middle grading both, and no national organization, no study, no scoreboard. That's the shape of it.



Herman

And it's proliferating, which is the part that makes me uneasy. There's a new one every few months. Fifty channels now, a hundred in a year, and each new one has to out-do the last to get noticed. That's a genre that gets worse as it grows. It doesn't plateau. It escalates.



Corn

Which is what Arizona's eight-foot law was responding to, and what the New York ruling responded to. Legislatures and courts catching up as the genre gets more shameless.



Herman

The law follows the cameras. It always does.



Hilbert

It wasn't forty-one thousand.



Hilbert

Colorado Springs. The line item was forty-one thousand, and that's what the city paid, but the number people quote is forty. Forty's the round number they use when they don't want to argue about the overtime the department put in defending the case. If you're counting what the taxpayers actually spent, the number is higher, and it's not close.



Corn

You've been sitting on that for a while.



Hilbert

I've been sitting on a lot of things, Corn.



Herman

How do you know the Colorado Springs number?



Hilbert

I kept a binder once. Not about that. About a neighbor. Summer of eighty-seven. He had a fence, and behind the fence I counted eleven ferrets, and I'm no expert on ferrets, but eleven's not a hobby, eleven is a business, and you need a license for a business.



Corn

You audited your neighbor.



Hilbert

I observed him. From the street. Which is legal, and I checked. I had a camera, and I had a logbook, and I had a little binder with the tabs, and every time a car came I wrote down the plate. Every time he opened the gate I wrote down the time. I did it for four months. He never even looked at me. Polite guy.



Herman

What did you do with four months of surveillance on a ferret breeding operation?



Hilbert

I gave up on catching him. I mailed him a letter. Anonymous. One page. I said, eleven is a lot. That's all. Eleven is a lot. He put up a taller fence about three weeks later. Six foot. Finished the whole run.



Corn

That's a win?



Hilbert

The fence got taller. Because he knew somebody was watching. You don't film to catch them doing something wrong. You film so they know you're watching. The video is just the receipt.



Herman

So the whole genre is doing it for the phone video.



Hilbert

They're doing it for the receipt. The receipt is worth nothing if nobody thinks you're checking.



Corn

Did you keep the binder?



Hilbert

I kept the binder. It's in a storage unit out past Route 9. Forty-seven dollars a month, which is stealing. I've never gone back and opened it.



Corn

Forty-seven dollars a month for a binder.



Hilbert

For twenty-two pounds of binder, if you're being precise.



Herman

What happened to the ferret guy?



Hilbert

He's a friend now. We do a barbecue once a summer. He invites me, I bring the potato salad, and I have never once told him about the binder. Never will. Some things go to the grave.



Corn

You've been friends with the man for decades and he still thinks you were just the neighbor who liked potato salad.



Hilbert

He thinks I'm a good neighbor. And I am. I'm a great neighbor. He just doesn't know why.



Herman

Wait. You said no confrontation. I want to come back to that. You said you never got one encounter on film.



Hilbert

Correct.



Herman

Then how did you win second place at a ferret show?



Hilbert

I didn't say the show was on film.



Corn

You didn't mention the show at all.



Hilbert

Ted invited me. He said, you should come see the animals. And I went, because as an investigator you go where the evidence is. There were fifteen categories. I entered one. I placed second.



Corn

As an undercover observer.



Hilbert

As a competitor. Second place. I have the ribbon. It's in the binder.



Herman

Hold on, hold on, hold on. What category? What was the category that you placed second in?



Hilbert

I'd rather not say.



Corn

Hilbert.



Hilbert

The ferret knew what it was doing. That's all I'm going to say.



Herman

So you spent four months conducting a covert audit of a ferret breeding operation, won a prize at the ferret show, and the man you were investigating ended up being your friend for thirty years.



Hilbert

He's a good guy. And the fence is still up. Six foot. Never came down.



Corn

So what are you telling us? That the genre's got it backwards?



Hilbert

They're right about the law, mostly. And they're wrong about the camera. The camera isn't the point. Somebody noticing you're paying attention is the point. They paid attention to the four-month binder. Which they never even saw. They just knew I was out there.



Herman

That's an interesting theory of deterrence, that the belief that you're being watched is doing the work, not the recording.



Hilbert

It's not a theory. I've got a taller fence. I didn't need a single video. I needed four months of showing up. And then I mailed one page.



Corn

One page. Eleven is a lot.



Hilbert

He knew exactly what it meant. He never asked me if it was me. He just fixed the fence.



Corn

What happened at the show, Hilbert?



Hilbert

I told you. Second place. The ferret knew what it was doing. He'd been doing it his whole life. I'd been doing it for four months.



Herman

Do you ever think about opening the binder?



Hilbert

No. Because a binder has a job. Its job is to exist. Once you open it, it's just paper.



Corn

The New York stationhouse ruling. That's the thing I keep chewing on.



Herman

Because it drew the line inside the building. The circuit courts spent a decade settling the outdoor question, and inside the stationhouse is where the doctrine thins out. Right-to-record statutes, in the state court's reading, don't reach the lobby. Not because filming police on a street is unprotected, but because a lobby is a different kind of space with different interests. Victims sitting on a bench waiting to give a statement. A witness in a hallway who's about to be recognized. An undercover officer coming through a door.



Corn

And that's an answer that will travel.



Herman

It'll be cited in every jurisdiction that has a similar statute, and the auditors will immediately start testing whether their state legislature will tighten it or loosen it. So you're going to get a state map out of one courtyard.



Corn

The map is the part that no one watching the videos sees. They see the interaction, they don't see the case that follows.



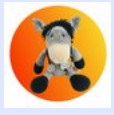
Herman

And the case is the actual product. The video is a byproduct.



Corn

Which is what Hilbert said. The video is the receipt.



Herman

The receipt that the transaction happened.



Corn

So what do we actually take from all of this. Not the sincerity question, because the sincerity question doesn't resolve. What's the one thing.



Herman

The one thing is that the legal right is real, narrower than the auditors claim, broader than the departments would like, and completely indifferent to whether the person invoking it is a saint or a felon. The doctrine doesn't check your priors before it protects you. That's not a bug either. It's the deal with a real right.



Corn

And I'll put the sharpening on it. Which is that the interesting thing underneath the whole genre is not the law at all. It's that a camera and a ring light aren't the same as accountability. The mechanism that actually changed a police department's behavior in the eighties was a new felony on the books for falsified reports. A statute. Something with a penalty attached to it. The videos are loud, and the statute did the work.



Herman

Kamau's group got a law changed. The modern channel gets a million views. Those are different products for different customers.



Corn

Which means the sincere ones are doing slow, unglamorous work with campaigns to state legislatures, and the ones getting the million views are mostly performers. The two things have stopped being the same activity.



Herman

They never were. They just shared a name.



Corn

So Daniel's paradox isn't a paradox. It's a bait and switch that keeps running because the audience doesn't want the resolution. The audience wants the interaction.



Herman

Which is exactly why the genre won't self-correct on sincerity. It'll self-correct on law, because law is the thing with a scoreboard, and courts don't care about views.



Corn

A taller fence. Same logic.



Herman

It took him four months and a one-page letter. The fence went up.



Corn

The one thing I'll leave people with. The right to record is real, and mostly protected, and it matters — but the right is not the same as the result, and the video is not the same as the law. If the audit actually worked, the change would show up somewhere with a docket number. If it only shows up on a channel, the change was in the channel, not the department.



Herman

Or, as our producer would put it, the binder is proof that you were watching, not proof that you were right.



Corn

Producing, as always, Hilbert Flumingtop. This has been My Weird Prompts. The human-AI collaboration podcast. If you enjoyed this one, leave us a review wherever you listen. It helps other people find the show.



Herman

And if you've ever found a channel like this and lost an afternoon to it, you're not the only one. We'll be back soon.

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