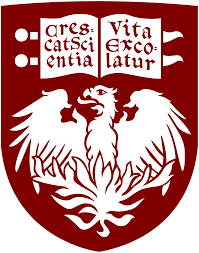
To Record and Protect: Exploring Dilemmas of the Body-Camera Debate Through Stakeholder Perspectives

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Paper Presented to:

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Abstract

Previous studies of body-worn cameras have used survey and experimental methods such as randomized controlled trials to examine the impact of body-worn cameras within the law enforcement field. Outcome metrics from these studies have largely been limited to use of force, volume of complaints against officers, and number of arrests. Researchers have yet to fully explore the impact of body-worn cameras on other important areas such as the legal field or local police-community relations. Additionally, while existing studies provide key insights for policymakers, they do nothing to humanize or examine the individual perspectives and experiences of the stakeholder groups that body-worn cameras impact most directly.

This study explores the perspectives of police officers, prosecutors, defense attorneys, nonprofit workers, and academics with relationships to the law enforcement field through qualitative interviews. Analysis of these interviews revealed different conceptions of the purpose of body-worn cameras as well as mixed awareness among stakeholders of one another’s concerns and perspectives. The results bring greater clarity to the trade-offs and implications of key policy decisions regarding the implementation and effective use of this technology, enabling policymakers at the department level to bring a more nuanced understanding of this technology to policymaking efforts.

Recommendations from this study include the creation of a timeline and procedure for the release of high-profile incident footage, provisions that encourage the review of footage by supervisors but limit review of footage by officers following uses of deadly force, and the enactment of straightforward and comprehensive camera activation guidelines.

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Thank you to Doug and to my friends for cheering me on. Thank you to my family for supporting me always, especially my mom, who volunteered to read and edit my entire rough draft because she wanted to help.

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Introduction

The history of policing in the United States is fraught with racial inequity and political tension. In fact, the first police forces created in the South were for the explicit purpose of preserving and enforcing systems of enslavement (Waxman, 2017). Images of police officers aiming fire hoses and using canines on civil rights marchers have been burned into the minds of many Americans. Every year on September 11th, our society honors the brave police officers that lost their lives in attempts to save civilians from the collapsing World Trade Center (Officer Down Memorial Page). The nature of policing in this country is full of such tensions and contradictions: from the simultaneous overuse of harassment policing and under-policing of violence in disinvested communities to the fundamental desire for safety that demands both protection by the police and protection from the police. The study of policing and policing technology is complex and filled with these deep-rooted and nuanced perspectives. Consensus is rare, and tensions often run high.

Body cameras are no exception to this contradictory nature of policing. They represent an important opportunity to introduce accountability and objective evidence into police-civilian interactions as well as a threat to personal privacy. The calls for accountability are nothing new, but the rise of body cameras has intensified the movement for police accountability by revealing the treatment that predominantly black members of disinvested communities receive at the hands of police officers, making us all “eyewitnesses” to this violence (Dunn and Lieberman, 2019). The killings of Tamir Rice, Laquan McDonald, and Eric Garner have become national symbols of police violence, calls to action for reform, and powerful testaments to the power of video recording. Protests have taken place in cities across the United States, and movements like the Black Lives Matter movement have given voice to hundreds of years of pain and frustration. The relationship between this movement and counter-movements, such as the Blue Lives Matter movement, exemplify the tension that underlies many of the interactions between police officers and the people they promise to serve and protect.

Partially in response to the rising calls for accountability, law enforcement agencies have rapidly adopted body camera technology. In fact, 47% of general-purpose law enforcement agencies had acquired body worn cameras by 2016, the most common goals being to improve officer safety, to resolve civilian complaints, and to improve evidence quality (Hyland, 2018). At the time, body cameras seemed like a topic on which the police and the public could generally agree; both groups were, at the very least, open to their implementation. However, as the use of body cameras became more widespread, more granular policy decisions incited disagreements. Today, there are several areas of body camera policy that have yet to be resolved, among them the questions of public and law enforcement access to footage, where and when it is appropriate to record, and what effect the use of body cameras and the answers to each of these policy questions might actually have on the daily practice and experience of policing.

Responding to these questions is important for a variety of reasons. First and foremost, the evidence collected on body cameras points to the conclusion that we cannot rely on body cameras to magically produce police accountability, especially as measured by use of force or citizen complaints. In fact, exclusive focus on the positive effects of body cameras is potentially dangerous given the rapidly evolving role of facial recognition technology and other forms of community surveillance that are likely to become more accessible to law enforcement in the near future (Dunn and Lieberman, 2019). At a fundamental level, the reality that these cameras are being used by police departments across the United States necessitates that we understand how they affect officer-community member interactions and that we take an informed, intentional approach to creating body camera policy. As one retired police chief put it, “policing practices are implemented based on organizational culture and political and community expectations rather than scientific findings” (Bueerman, 2012). While “evidence-based policing” has been promoted throughout the past decade, the law enforcement field is still figuring out how to effectively engage with and promote scientific research (Bueerman, 2012). Body cameras are no exception to this ongoing challenge. As a result, policymakers and legal professionals are still scrambling to understand the impacts and applicable guidelines that will govern the use of these devices and the footage they produce.

This paper seeks to contribute to this investigatory process by answering the questions: how do stakeholders in the law enforcement field view body cameras, and what implications do their perspectives have for the formation and implementation of body camera policy? Law enforcement stakeholders include nonprofit workers who focus on law enforcement or violence prevention, police officers, academics, and lawyers. Answering these questions will not only inform policymakers at the police department, local government, and state government levels as they consider effective implementation strategies, but will also give the public a more nuanced understanding of the body cameras that their local police officers may be wearing. This knowledge could empower community members to take an active role in shaping and designing body camera policy. This study will begin to answer some of these open questions by exploring various perspectives on body cameras through a series of stakeholder interviews. After speaking with eleven stakeholders both internal and external to the law enforcement field, I analyze their comments by highlighting key themes which stakeholders identified as important, on which they shared common views, or which they were especially divided. I then use this analysis to inform tangible policy recommendations that derive from a nuanced understanding of stakeholder beliefs and values.

Background

Police officers’ use of force is one of the most controversial and publicly debated aspects of policing. Data on police use of force has been collected on a federal level for more than twenty years (Bureau of Justice Statistics), yet in 2018, the United States Commission on Civil Rights found that while allegations and concerns of excessive or unjustified use of force continue and proliferate, the national and local data on these incidents remain insufficient and unreliable. Despite this lack of data, efforts to address the inappropriate use of force by police officers have risen to popularity. These strategies include alterations to officer training such as sensitivity or implicit bias training, changes in department policy regarding use of force, and the introduction of civilian oversight bodies. Yet despite these tactics, problematic uses of force, particularly of deadly force, continue to occur (Ariel et al., 2016). In 2014, a series of videos in which police officers shot unarmed black men brought national attention to the problem of police violence. Anyone with internet access could become an eyewitness to the deaths of EJ Fitzgerald Bradford Jr., Michael Brown, Tamir Rice, and Walter Scott, among many others, because these incidents were captured on camera (Dunn and Lieberman, 2017). Videos were shared across the country and across the world on social media and in the news, revealing a painful reality about policing that disinvested communities had been reckoning with for decades.

Body-worn cameras also captured national attention around this time, largely because the power of video footage of police encounters was more obvious than ever before. Police departments in the United Kingdom adopted body-worn cameras as early as 2005, however they were not common among police departments in the United States until almost a decade later (Kyle and White, 2016). Their proliferation in the United States was sudden and public. In 2013, a Federal District Judge in Manhattan ruled that the New York Police Department’s (NYPD’s) stop, question, and frisk program was unconstitutional, and ordered officers in high volume “stop and frisk” precincts to wear body cameras as an effort to increase transparency and promote fair treatment (Center for Constitutional Rights, 2014). In 2015, the Department of Justice under the Obama administration awarded over $23 million in funding for police departments to adopt body cameras (Department of Justice, 2015). A national survey of civilians conducted in 2015 by the Center for Crime and Justice Policy at University of Nevada, Las Vegas found that 85% respondents supported implementing body-worn cameras in police departments, and 91% of respondents believed that the cameras would improve transparency (Sousa et al., 2015). By 2016, 47% of general-purpose law enforcement agencies in the United States had acquired body cameras (Bureau of Justice Statistics, 2018). Although official survey numbers from the Bureau of Justice Statistics have not been updated since 2016, informed estimates predict that 50-60% of law enforcement agencies currently use body-worn cameras (Miller, 2019).

These cameras were advertised to the public as a method of police reform at the same time that video footage had revealed the need for such reforms. As demand for body cameras skyrocketed, manufacturers including Axon, Pinnacle Response, Pro-Vision, and Shenzhen were among those that reaped the benefits. The technology itself consists of a small camera, which can be placed on the shoulder of an officer’s uniform as well as on an officer’s hat or sunglasses. This camera is capable of capturing video and in most cases audio as well. The camera can be manually activated by the officer wearing it, or automatically activated when the officer activates the lights and sirens in their vehicle or removes their gun from its holster. Video is uploaded when the camera is placed on a docking station and can be stored on local police department servers or on an online storage platform, for a fee. Many of these storage platforms are owned by body camera manufacturers.

Despite the promise of this new technology, individuals outside and within the law enforcement field also raised important concerns about its use. Chief among these concerns was the issue of privacy. Civilians wanted their interactions with police, especially those of vulnerable populations like children or domestic abuse victims, to be kept private, while police officers were concerned that footage would be used as a tool to monitor their private conversations and punish them for harmless missteps (White, 2016). Stakeholders also worried about the cost of buying and maintaining these devices, the cost of storing the footage, and the time and money needed to redact footage to make it suitable to publish in response to Freedom of Information Act requests. Finally, the potential power of combining body-camera footage with facial recognition technology was a key privacy concern (Dunn and Lieberman, 2017). Conventional wisdom that increasing audio-visual evidence will increase accountability is not a guaranteed consequence of instituting body cameras. The NYPD, for example, has been criticized for failing to provide footage in roughly one third of complaint all cases reviewed by the Civilian Complaint Review Board, an entity tasked with reviewing complaints against officers (Geringer Sameth, 2019). Even when footage exists, access may not be distributed equitably. Clearly, there are myriad policy and procedure questions upon which the success of body-worn camera policy depends.

Literature Review

The rapid proliferation of body camera technology meant that academics began studying body-worn cameras around the same time as police departments began adopting them, leading many departments to adopt the cameras without much information about their real effect on policing. Since body-worn cameras were touted as a mechanism for increasing trust between communities and police officers, studies of these devices focused on measuring increases in community trust, a “civilizing effect” on both officer and civilian behavior including reductions the use of force, a decreased in complaints against officers, increased efficiency in adjudicating civilian complaints, and the value of body-worn camera footage as material for police training (White, 2016).

*I. Theoretical Grounding*

The literature on these hypothesized effects of body cameras is grounded in two primary theories. The first is Deterrence Theory, which postulates that offenders balance the costs and benefits of crime, and that costs are assessed based on the severity of the punishment and likelihood of getting caught (Becker, 1968). According to this theory, body cameras should serve as a mechanism to increase the likelihood of getting caught, and would therefore deter bad behavior both in police officers and in civilians. The literature also explores the application of Social Influence Theory, which suggests that increased self-awareness leads to more socially acceptable behavior. This theory postulates that humans alter their behavior when they are being watched; for example, studies have shown that people are more likely to wash their hands in a public restroom if someone else is also present (Munger and Harris, 1989). In this way, someone’s knowledge that they are being filmed might alter their behavior to be more cooperative or normative. The application of Self-Awareness Theory to body-worn cameras is somewhat unclear given the lack of evidence suggesting that people respond similarly to observation by a human being and observation by a camera. Additionally, if an individual is being filmed by a body-worn camera then he or she is by definition already interacting with a police officer, a situation that on it’s own results in increased self awareness. For the presence of a camera to have an effect, it would need to increase that individual’s self-awareness even further.

*II. Measuring The Effects of Body Cameras*

The current literature remains uncertain about what effects body worn cameras actually have on police and civilian behavior. Interestingly, meta-analyses in this area tend to produce grimmer outlooks than individual studies. In 2016, a prospective meta-analysis of data from ten trials in multiple countries revealed no significant effects of body-worn cameras on police use of force (Ariel et al. 2016). In some cases use of force decreased, while in others it increased. The authors attribute these differences to differences in officer discretion, claiming that policies that permit minimal officer discretion camera activation led to decreased uses of force. This study also found that body cameras led to increased rates of assaults against officers, introducing a new element of risk into the use of this technology. A second meta-analysis published in 2019 found similar results, concluding that body cameras have not had consistent effects on officer behavior, civilian behavior, or civilian view of police (Lum et al., 2019).

By contrast, an early, randomized control study of body-worn camera implementation in Rialto, California found that officers without body-worn cameras were twice as likely to use force as those wearing cameras, and that the total number of complaints filed against all officers in the department decreased tenfold after the implementation of the body-worn camera pilot study, though there were few complaints to begin with (Ariel et al., 2014). Similarly, a randomized control trial in Orlando, Florida found that officers who were randomly assigned to wear body cameras were less likely to receive serious external complaints and had fewer “response to resistance” incidents than their counterparts without body cameras (Jennings et al, 2015). As the study of body cameras progressed, researchers began to examine more nuanced outcomes. Ready and Young (2015) completed a controlled experiment in Mesa, Arizona in which 50 officers wearing body cameras were compared to a control group of 50 officers who were not assigned to wear cameras. The study found several significant results, including that officers with cameras issued 23% more citations and initiated 13.5% more encounters with civilians, while officers in the control group initiated 10% more stop and frisks and make 7% more arrests (Ready and Young, 2015). However, not all studies have found positive outcomes. A randomized control trial that was implemented in Washington, D.C. also measured use of force, civilian complaints, policing activity, and judicial outcomes, finding that body cameras had no significant effects on any of these outcomes (Yokum et al., 2017). While randomized control trials provide strong evidence for the effects of body camera deployment, they are also highly localized. One can imagine many alternate variables that would affect the outcomes of these studies such as the relationship between the police and the local community or the demographics of the local population.

*III. Examining Stakeholder Attitudes Toward Body Cameras*

Clearly, more research is needed to determine why these studies have seen such divergent outcomes. One of the most studied areas that could influence the outcome of implementing body cameras in a police department is officer attitude toward the use of the technology. The aforementioned randomized control trial in Orlando surveyed officers, findings that 63% of officers were in favor of their department adopting a body-worn camera program, and 77% of officers were comfortable wearing the cameras (Jennings et al., 2014). The experimental study in Mesa, Arizona also measured officer opinion, and found that officers who were assigned to wear cameras were 25% more likely than officers who were not assigned a camera to perceive the cameras as being helpful, suggesting that officer opinion might become more positive with experience (Ready and Young, 2015).

Unsurprisingly, not all departments react similarly to the implementation of body cameras. One study compared officer attitudes before and after camera deployment for three departments in Phoenix, Arizona; Tempe, Arizona; and Spokane, Washington (Gaub et al., 2016). This study found that officers from different departments had divergent views about the cameras both before and after implementation. For example, before the implementation of body cameras, only 16% of Phoenix police officers said that the advantages of body cameras outweighed the disadvantages. In contrast, 78% of Tempe officers agreed that the advantages outweighed the disadvantages. After Spokane police officers began using body cameras, they had increasingly positive opinions of the cameras, whereas Phoenix and Tempe officers were less likely than before to say that the use of body cameras improved civilian behavior. Phoenix police officers also believed that the use of body cameras hurt police-community relationships by causing officers to avoid contact with the public (Gaub et al., 2016). The authors suggest that part of the difference in attitude may be a result of temporal factors, since the Phoenix survey results were from 2013, before the technology had proliferated, whereas the other departments were surveyed in 2015 after body cameras had started to gain popularity. In addition, most of the metrics addressed in these surveys were measured descriptively rather than causally. Therefore, it is unknown whether officers’ perceived effects of body cameras mirror the actual effects of the technology.

The other stakeholder group that researchers have surveyed regarding body camera usage is civilians. The Policing Project undertook two such projects in New York and Los Angeles, finding that participants in New York were generally in favor of body-worn cameras but wanted officers to file reports before viewing the footage and supported a streamlined process by which people in the recordings could view their own footage (Policing Project, 2016). In Los Angeles, the survey included both police officers and members of the public, and the authors found that the two groups disagreed over the timing of the release of critical incident footage, with the general public advocating for automatic release after a predetermined time period (Policing Project, 2017). Survey data from a national sample collected in 2015 indicated broad support for body cameras and widespread confidence that they could improve police transparency, with some variation in beliefs about the ability of body cameras to promote trust in law enforcement or improve police-community relations (Sousa et al., 2017). The Pew Research Center reported in 2016 that 66% of police officers and 93% of the public supported the implementation of body cameras (Pew Research Center, 2016). However, this same survey found that only 33% of police officers believed that body cameras would improve treatment of officers by the public, while 59% of civilian respondents agreed with this statement. When asked if body cameras would make officers act more appropriately, 50% of officers and 66% of civilians said yes, demonstrating that overall civilians were more optimistic about the effects of body cameras than police officers. While this research is important, there are many other stakeholder groups such as lawyers, judges, or body camera developers whose perspectives have yet to be explored and whose influence is critical in the effective implementation of body cameras. Additionally, it is entirely possible that public or police opinion of body cameras has changed in the past three years since the devices have been widely implemented.

*IV. Additional Areas of Study*

Another important and largely unaddressed variable with the potential to effect body camera outcomes is written policy. Policy on body cameras varies greatly at state and police department levels, and variations in policy could potentially have effects on whether body cameras impact key metrics of interest. The previously cited controlled experiment in Mesa, Arizona provides some evidence to support this claim. Department policy was changed halfway through the trial from a mandatory camera activation policy in which officers were directed to activate their camera any time they interacted with a member of the public to a discretionary camera activation policy. Findings from the study showed that arrests were significantly more likely during the discretionary period (Ready and Young, 2015). The meta-analysis by Ariel et al. (2016) also suggested that limiting officer discretion in camera activation led to decreased use of force, while agencies that did not limit discretion saw increased uses of force. Issues such as camera activation policy, privacy policy that determines when it is appropriate to record, decisions about whether or not officers are allowed to view footage before making reports, and the question of whether footage should be used to discipline officers remain contentious topics in the law enforcement field, and have not been examined as possible determinants of body camera implementation outcomes.

While the academic field has begun to examine body cameras and their effects, this research is still new and its scope remains limited. Studies have focused almost exclusively on measuring the effects of body cameras on a few metrics for policing activity, and on examining the opinions of police officers and members of the public concerning these devices. These approaches are important, but they leave much to be desired. Future research should explore the impacts of different body camera policies on various stakeholder groups using diverse outcome metrics and approaches. This study hopes to begin that expansion process by using a qualitative method to examine body camera-related policy issues from the perspectives of several stakeholder groups. This not only employs a form of methodology that the field has largely neglected, but it also focuses on the impact of policy decisions on individual stakeholder groups that most studies have yet to consider.

Methods

As discussed, the literature on body cameras has examined stakeholder attitudes toward these devices through survey methods and the effects of body camera implementation through several robust randomized control trials. Surveys produce generalized data, which, while informative, do nothing to humanize stakeholder perspectives or to examine the experiential impact of these perspectives on implementation. Different stakeholders may be approaching and valuing the use of body cameras in different ways and may take different approaches to questions such as how and when footage should be released to the public and when an officer’s body camera should be activated. The impact of these alignments or misalignments on policy and on the intent and effect of implementing body cameras remains largely understudied. This study will use a detailed research approach, stakeholder interviews, to provide a richer understanding of key stakeholder perspectives. This understanding will then inform implementation recommendations.

The interviews used in this study were intended to explore details of body camera policy and stakeholder experience that are not often discussed alongside one another. In doing so, they reveal the alignment and misalignment between stakeholder interests and perspectives. While there are various groups with unique expertise in the body camera field, the general public may not have direct access to these stakeholders or their experiences. For this study I identified five key stakeholder groups: police officers, lawyers, nonprofits that work in the law enforcement space, academics that study law enforcement, and the public. While the public is a difficult category because it is so broad, this study focuses the perspective of members of the public that have had especially high contact with the police.

I primarily used snowball sampling to recruit participants, in addition to reaching out to organizations and individuals that appeared in my research and using my own connections to find participants. I spoke with all qualified individuals who were willing to be interviewed, since the purpose of the interviews was to collect firsthand information. Profiles of interviewees are provided below. Information was self reported by participants.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Pseudonym** | **Relationship to body cameras or law enforcement** | **Age** | **Gender** | **Race** |
| Alex | Employed at a non-profit that works in the law enforcement space | 30s | Male | Middle eastern |
| Owen | Former police officer and ACLU consultant, wore a body camera | 30s | Male | Indian |
| Bryson | Employed at a non-profit that works in the law enforcement space | 20s | Male | Middle eastern |
| Nelson | Current police officer working in police administration, does not wear a body camera | 40s | Male | White |
| Peter | Professor doing research in the law enforcement field | 40s | Male | Latino |
| William | Professor doing research in the law enforcement field | 40s | Male | White |
| Kelly | Current police officer, regularly wore a body camera | 40s | Female | Black |
| Elijah | Employed at a non-profit that does violence prevention and de-escalation | 40s | Male | Black |
| Robert | Prosecutor | 30s | Male | Indian-American |
| Laura and Xavier | Lawyers at a Legal Aid Center | 50s, 20s | Female, Male | White |
| Maurice\* | Assistant District Attorney | 50s | Male | White |

\*Due to circumstances related to COVID-19, I was unable to directly include Maurice’s interview in my findings and analysis. I’ve chosen to keep him in the table because, although he is not quoted directly, I kept ideas from our conversation in mind when writing my analysis and recommendations.

Interviews were conducted both in person and over the phone depending on the location of the participant. All interviews were recorded on my phone or tablet and transcribed in a manner concordant with IRB policy. The key questions I asked participants included:

* What is your professional relationship to body cameras?
* Can you tell me about a moment when a body camera or a related policy was helpful to you or impacted your work in a positive way? What about a negative incident or policy?
* Do you perceive any conflicts in opinion within or between stakeholder groups both inside and outside the law enforcement field?
* What do you believe are the effects of implementing body cameras in a police department?
* Are there any policy questions such as camera activation, release of footage, or review of footage that affect your work? What are your thoughts on these policy questions?
* What effects do body-worn cameras have on your work?
* What is the purpose of body-worn cameras?

A more complete list of questions can be found in Appendix A. I did not ask each question to each participant, but rather used the questions as a starting point and allowed the conversation to move naturally between topics. Occasionally, I redirected participants to ensure that they covered most if not all of the key questions above. Some participants emphasized specific policy issues over others, and I did not force them to address individual policy questions that they did not bring up on their own. Overall, my goal was to get participants to include as much personal experience in their assertions as possible.

Once the interviews had been recorded, I transcribed them by hand. Both the audio files and the transcriptions were securely stored in my Box account. When transcribing I listened to the interview and took general notes on the entire interview including topics we covered and comments made by participants. I then listened to each interview a second time and took direct transcriptions of important sections in quotation form to include in my findings section. Finally, I made a short list of key themes at the top of each transcription. I used these lists of themes to organize my findings around common topics that were discussed by multiple participants. I tried to withhold my own thoughts as much as possible throughout the findings section to allow participants space to tell their own stories and share their own thoughts. My opinions and interpretations are revealed in the policy recommendations section.

One of the most important limitations of this interview method of data collection is that my own reactions and biases or the participants’ perception of these biases may have shaped the follow-up questions I asked and the answers they gave. Additionally, as I progressed through the interviews, I sometimes asked questions that derived from an interesting point that a previous interviewee had mentioned. While this allowed later interviewees to address common arguments or perspectives about body-worn cameras that arose in earlier interviews, it may also have placed earlier interviewees at a disadvantage because they were not prompted to respond to the concerns or arguments of other stakeholders. Another important limitation of this method is generalizability. The thoughts that stakeholders expressed during interviews were personal, and may not reflect the opinions of other stakeholders, even those with similar relationships to law enforcement. Specifically, the experiences and perspectives shared here may represent more progressive opinions of body cameras and law enforcement than are shared by most law enforcement stakeholders because my connections were made within my own network of contacts at a mostly liberal university. Finally, a disproportionate number of interview respondents were male. This may be because law enforcement tends to be a male-dominated field, but it is an interesting and important aspect to keep in mind when considering the perspectives that were shared.

Findings

In this section, participants are placed in conversation with one another to illustrate how different actors in the law enforcement field are approaching and evaluating various body camera policy issues. Analysis revealed many complex truths about body cameras. There were many instances in which those outside the law enforcement field and those working within it had different values and perspectives when it came to body cameras. However, there were also areas in which both groups struggled with ambiguity and tried to find ways to balance shared concerns and goals. The analysis is divided by themes. Some stem from specific questions I asked participants, while others arose from topics introduced by the participants themselves. The themes include: the purpose of body cameras, camera activation and privacy concerns, review of body camera footage, release of body camera footage, implications and uses of body camera footage in the judicial system, and what body camera footage fails to capture.

*I. The Purpose of Body Cameras*

One of the most important discussions that ensued during interviews was the framing of what body cameras actually do, and what the purpose of body cameras should be. Three main perspectives emerged from the analysis. The first viewpoint on the purpose of body-worn cameras was judicial. Most individuals I interviewed were familiar with this perspective. Owen, a former officer, said that in the city where he served as a police officer “it [implementation of body cameras] was pushed by the DA’s office because of evidence collection; it was just a good way for prosecutors to have visual evidence for their cases.” Before body cameras were part of the public campaign for police accountability, they functioned as a tool used by prosecutors to collect evidence. Alex, who works with law enforcement from the nonprofit side, also remarked on this connection, noting, “I know they’re used widely in evidence. They’re used a lot to record consent to search. It’s one area where in criminal law you always have a fight. Like did the guy consent to have his vehicle searched? Well if it’s on body camera you don’t have as much of a fight.” The evidence that body cameras provide not only allows prosecutors to build better cases, but it can also streamline the case development process by providing a record of otherwise contentious proceedings like consent to search.

Robert, a prosecutor himself, confirmed this statement, saying that body cameras were extremely helpful both from an investigation standpoint and from a litigation standpoint. He also explained that he uses body camera footage as a “powerful storytelling tool” in the courtroom that allows him to demonstrate that police officers are trustworthy. The footage helps him decide whether or not he trusts his own police officer witnesses enough to prosecute cases. He explained, “Obviously if you’re already suspicious of a police officer’s account of something and then you find out they didn’t turn their camera on it certainly heightens that and gives you pause about moving forward with the case.” Not only does the presence of body camera footage help Robert in court, but its absence can also signal to him when a case may not justify his time.

Laura, a defense attorney who works in legal aid, echoed Robert’s perspective from the opposite side of the case. She sees body cameras as game changing technology because they make it easier for her to support her clients’ version of events, and, as Robert mentioned, to “understand when we can’t actually win a case…it’s led to trying to resolve the case in a favorable way as quickly as possible.” Not only are lawyers able to use footage to support their clients’ version of events, but it also makes it easier for them to make important decisions regarding which cases to pursue and where to devote finite resources.

Police officers have a related but unique perspective of body cameras, often focusing on their evidence-capturing capabilities. This is the second framework for the purpose of body-worn cameras. While participants sometimes mentioned that officers were reluctant to try body cameras, they generally agreed that after using them for a while, the officers came to appreciate them. Nelson, a police administrator, shared a perspective that he feels is common across police departments.

For the great majority of departments that have had body cams they’ve had a very positive experience. And even for the officers after they’ve seen them in action and seen the response they’ve realized that it’s a tremendous tool to be able to back up the officer because 9 times out of 10 or more the body camera will corroborate the officer’s account of what happened, and the perception by someone complaining frequently is shaded a little, and the body cam benefits the officer because it documents what they did and how they did it and it wasn’t what was reported.

Officers generally approve of body cameras because they can be used to invalidate false complaints, a problem that is, for good reason, of great concern to officers. Owen, a former police officer, referenced a specific national news story in which body camera footage cleared an officer of fabricated charges.

This car was, again, traffic violation late at night, but driving erratically, going through red lights. The police officer pulled this person over, and this person and the police officer had a very calm conversation, and then this police officer gave that person a warning and that was it…The next day that person goes on social media and says the police officer accosted this person, said racial terms against this person. This person is the chapter head of the NAACP for Pittsburgh, and makes up this wild story about something that just did not happen. So basically that police officer when accused of this he just showed his supervisor the video…The person did say “I’m the head of the NAACP, you don’t wanna mess with me” and the police officer said “I’m just gonna give you a warning today, that’s all”. But in this person’s story they called them the n-word, slapped them in the face, spit on them, drew their gun, all these things happened and this person barely escaped with their life. When the higher-ups in the police department showed this person the video they didn’t recant, but they removed – they withdrew all charges. This type of thing is common.

When asked why people would lie in this context, Owen said that while some people lie to get out of trouble, many people also lie for attention, since it’s “kind of popularized to have a story in the media that’s anti-police.” This case demonstrates a strong reason why police officers love body-worn cameras. Given the current political climate, police officers are glad to have a record of events that allow investigations to reconcile two competing narratives without relying on hearsay. Individuals outside of the law enforcement field were also aware of this perception of body cameras by police officers. Robert, who works closely with police officers as a prosecutor, shared his perspective that “If you are an honest cop, body cameras can only help, especially in an age when people have more doubts about police officers and their credibility.” William, who does research in the law enforcement field, explained, “A lot of anecdotal evidence that suggests that if people make false allegations against them that the cameras help to clear them. Officers often find that the cameras work more to their benefit than to their disadvantage.” Alex, who works on the nonprofit side, commented, “every police department you go to says that officers love body cameras because they like to have a record of events when civilians file complaints against them. I haven’t seen data on that about whether it impacts it, but I hear that everywhere.” Generally, it seems that those inside and outside the law enforcement field are aware police officers favor body cameras for their exculpatory value.

This narrative that body cameras exonerate police officers against false complaints is clearly prevalent. However, body cameras could also serve to validate real complaints against police officers. This brings us to the third framework used conceptualize body cameras: that of accountability and transparency. This frame is popular among members of the public and those outside of law enforcement, and is temporally linked to the rise of video footage of officer-involved shootings. As Owen described, “In 2015 Ferguson happened and kind of a national outcry for more transparency in policing, which resulted in more funding being made available for body cameras, and as funding increased, demand increased…body cameras proliferated.” Most participants agreed that this was a popular view of body cameras by the public, including William, who said “Body cameras were sold to the public as a basically a technology that would help build community trust, enhance transparency, and do these types of things.” His words suggest that these may not necessarily be the real effects of body cameras, but rather that they were glorified as a tool to repair damaged community-police relations. Elijah reported that the young men he works with feel safer when they know a police officer is recording their interaction, telling me, “The guys know the body cameras is to make sure the police don’t do anything illegal. So that’s they perception…you can’t put no drugs on me now, can’t put no gun on me.” According to Elijah, the body cameras make the young men he works with feel more confident that the police will not manipulate evidence in order to incriminate them. They see the cameras as an effective tool for accountability.

Police officers were generally aware of the public perception that body-worn cameras increase transparency, but only referenced this perception while highlighting scenarios in which police officers were favored by the evidence that body camera footage revealed. Kelly, an officer who has worn a body camera for several years, exemplified this trend when she said, “They not only help the officer, but they help as far as transparency. If an officer is alleged to have done something wrong, not only will we see it’s inaccurate, but they see it too.” While it’s true that in some cases being transparent with footage is to the officer’s advantage, those who worked within law enforcement were reluctant to discuss the opposite scenario in which footage was unfavorable to the officer.

Owen, a former officer, reflected on the difference between public beliefs about body cameras and officer beliefs when he said,

I think the public sees body cameras as an accountability tool, and transparency tool. I think law enforcement sees them at least in part as an evidentiary tool. I’m not sure if there’s a divide on policy but at least, you know, the public doesn’t think of these cameras as something that can be used for evidence and that’s definitely one of the uses for police departments.

While it may have worked to the advantage of policymakers that both the police and the public derive benefits from body-worn cameras, the general public still may not have a complete understanding of what law enforcement gains from body cameras. While Elijah acknowledged that the benefits to having footage go both ways, and understood the sentiment expressed by other participants that sometimes “officers wish they would’ve had their body cameras on”, he did not discuss the importance of body camera footage as evidence. This lack of mutual understanding could be problematic when police departments seek out community engagement around body camera policy or implementation, something Alex has helped departments do.

Although the public’s view of body-worn cameras may not be entirely accurate according to the literature, participants did report instances where this framework was supported. Alex reported that he’d heard anecdotally that body cameras were “really effective in bringing down the temperature of a situation that cops know that they’re on film and so they tend to act more responsibly.” Another participant, Bryson, was more skeptical. He shared, “my general feeling as of right now…is body cameras don’t really reduce the use of force. They may increase the likelihood that misconduct complaints are sustained if the systems are properly set up, and they slightly increase the likelihood that officers may be indicted for killing people.” Although Bryson doubted the effectiveness of body cameras in reducing use of force, he still saw possible increases in accountability as a result of their use, particularly in cases of officer misconduct. Robert was also somewhat supportive of the idea that body cameras help to hold police officers accountable by promoting better behavior with the public, explaining that “because police officers know that they’re on video and that their interactions with citizens are on video...my sense is that like anybody, if you knew that you were being videotaped at work or with friends it would change the way that you interacted.” Presumably, this change could be for the better.

The perspective that body cameras have any effect on accountability seemed to receive mixed support within law enforcement itself. While Nelson did not seem to think that body-worn cameras increased accountability at all, Owen spoke specifically about a recent event in which body camera footage proved an officer was lying. This was one of the only moments in which an officer, in this case a former officer, directly addressed cases in which other officers were dishonest.

Let me say there’s many, many instances where the police officer is lying about what’s happening and the footage reveals it. That woman that was just shot in her home is a great example...If you read the police report it’s completely fabricated – based on the body camera footage it’s not even similar. That cop just clearly lied.

In this instance, body-worn camera footage was able to ensure accountability by contradicting the officer’s false account of events. Aside from Owen’s openness, law enforcement officers did not seem included to publicly discuss the perspective that body-worn cameras promote accountability. This is likely because the narrative that body cameras support rather than incriminate police officers is a more effective argument for progressive administrators or actors outside the law enforcement field who are trying to convince police unions or rank and file officers that body cameras are a good idea. It’s also possible that law enforcement is reluctant to address this dual reality because it requires the admission that certain police officers lie, an admission that they worry could lead to the generalized incrimination or invalidation of all police officers.

*II. Camera Activation and Privacy Concerns*

One policy topic that many participants discussed was camera activation. Elijah said that while the young men he works with feel safer when the body cameras are on, the reverse is also true. “Some of the participants have mixed feelings because some of the officers are gonna turn theirs [body cameras] off right away when they see them. Just to do what they have to do, pat them, search them, things like that…the youth they feel a little scared when they don’t have those body cameras, because the first thing that come to they mind is that these guys is up to something that’s not right.” The presence of a body camera can make someone feel safer, yet police officers who have discretion about activating their cameras may choose not to record encounters in which they engage in harassment behaviors. The young men that Elijah works with have learned to recognize an inactive body camera as a sign of suspicious activity by officers. Laura also shared reports of officers using camera activation to circumvent accountability, saying “there are officers that do things like wait to turn on their camera until key events have occurred because they know they there’s a 30 second-two minute buffering period.” While Kelly reported that in her department, officers are prompted to justify each decision to turn off their camera by supervisors, it is unclear how effective this is as an accountability mechanism. Clearly, even when officers have cameras there is room for error and manipulation.

Peter, a researcher, also saw police control of camera activation as a fundamental barrier to body-worn cameras being used as a true accountability mechanism.

It really doesn’t matter what I think or even what citizens think about the privacy concern …because at the end of the day police officers have the power to turn the thing on and off when they want to…I guess my mind would change on this if citizens had the capacity to turn on and off the police camera, but it’s really clear they don’t. The officers do. And given the long history of institutional problems with the police I am very skeptical as to what this is actually going to produce on the ground other than for a brief moment make it look like city governments and police departments are trying to do be less harmful.

He asserted that police simply cannot be trusted to responsibly determine when and if the body camera should be activated, and that allowing the police to manage the use of the devices created a fundamental imbalance in power that would prevent body cameras from becoming an effective accountability mechanism. Like many other skeptics, Peter is not inclined to trust the police to make snap decisions that promote the best interest of the communities they serve.

Nelson acknowledged this ambiguity, emphasizing that his department did not want to take video recordings of victims, but that it was not always clear who was a victim and who was not.

Certainly the privacy of the individual is important. And turning the body cam off for the victims is very important. However, there also needs to be a provision for turning that back on if there is an issue, if the person who appeared to be a victim is potentially an offender...implementation is still less than perfect because we’re not mind readers. We don’t know for sure when we meet someone whether they’re a victim or a possible offender – or both. So it can be a hard line to walk. You’re gonna have to do the best that you can knowing what you know at the time.

When body camera policies have built-in provisions that protect the rights of certain groups not to be recorded, officers must make judgment calls about when these provisions apply. Not all participants were as willing as Nelson to trust police officers to do their best with the information available. Participants outside law enforcement discussed the plausibility of an alternative policy: having body cameras remain on all the time. Alex stated, “I think that frankly any time an officer is in public the camera needs to be running.” Yet participants disagreed about what was preventing body cameras from recording all the time. According to Owen, the barrier to this possibility is the cost of data storage for departments that buy space on external servers to store their video. Alex noted a different barrier: battery time. Kelly shared that in some cases when members of the public who are watching footage assume that an officer turned their camera off, the camera might have just died. Some officers work 16 hours shifts, she said, which is longer than camera batteries can last. Officers must return to the station to place their body-worn cameras on a charging station or grab a new device. These concerns about storage and battery time present important barriers to camera activation policies that seek near-constant recording.

Bryson agreed that cameras should be activated all the time, though he did understand that officers might have privacy concerns. “There are cases to be made–I think fair cases–that you know if I’m driving around, I shouldn’t have to have my thing on all the time...if I’m having a conversation with my wife…you know? I get that, but I think for any interaction with a civilian it should, and I think when you create gray spaces it defeats the purpose and you see what you want to see.” Bryson understood that officers don’t want private moments to be captured on camera, but still insisted that creating exceptions for filming interactions with civilians allows officers to justify turning their cameras off in situations where they should be recording because they “see what they want to see.” He also emphasized the point that officers cannot always reasonably be expected to turn on their body-worn camera when situations turn violent, and that changes in the dynamic of a situation aren’t always predictable. Due to these other variables, Bryson recommended that the cameras “should be on just because they can’t control what happens…there are situations where it might be hard for them to turn it on all of a sudden.” Even in situations where officers have the best of intentions and are not bending policy to fit their purpose, it may not be practical for them to activate the body-worn camera in response to unforeseen circumstances. Keeping the cameras activated constantly prevents officers from encountering this predicament.

Alex defended his position that body cameras should be activated all the time by focusing on privacy through limited access to footage rather than limited recording, offering an option that maintains the accountability of a constantly recording camera while still protecting the privacy of the individuals who are being recorded.

For the most part when people are interacting with police it’s one of the worst days of their lives. So why should you have the worst day of your life on video for all time. It’s a really difficult question. At the same time, bright line rules like you don’t record inside a home – you know that just doesn’t work…I think the better way to deal with that is putting stricter protections on the video and who can access the video and making sure they don’t get released to the public. I don’t think the right answer is turning off the camera.

While he acknowledged that privacy concerns regarding footage were legitimate, Alex believed that back-end protections were a more effective way to protect members of the public while still ensuring that the necessary footage was captured and accessible to law enforcement. Bryson agreed, citing his own experience. “I do think when it comes to pedestrian stops…it’s a personal trauma that a person has to go through being stopped, usually for no other reason besides the color of their skin…I mean I’ve been stopped and frisked a few times, once in a pretty serious incident, and I personally wouldn’t want that aired to the public.” Bryson’s solution to the conflict between this need for privacy was to redact footage, though he was unsure if this would fully address privacy concerns.

Robert and Laura shared additional complications to the idea that cameras should be continuously recording by highlighting the burden that capturing excess footage places on prosecutors and defense lawyers. Robert said that he sees the desire on the part of police officers to capture every little thing as inefficient. He elaborated,

The entire time when they put someone in handcuffs and they wait on scene for 45 minutes for the supervisor to get there and verify the arrest and then place the defendant in the back of a squad car and then transport them to a precinct...a lot of the police officers, especially younger police officers, will just leave their body camera on. And as a prosecutor, from an investigation standpoint often times there are things that are at least marginally relevant, but we also have an obligation to review the information we’re provided or that was obtained and so that can be hours and hours and hours of footage that have little to no relevance and it can be a cumbersome amount of discovery to process.

Laura also felt this burden, calling the process of transcribing and watching body camera footage “laborious” and adding that she and Xavier are constantly trying to make sure they’ve been given all the evidence they need by processing hours and hours of footage.

William reported that, from his experience, policymaking is difficult because the public has complex feelings about who should or should not access body camera videos of more low-profile interactions. “People feel very strongly that they should have access to their own videos. They have some concerns, though, about the media having access to all videos.” William mentioned that one way to address this is requiring that the individual asking to see the footage be a primary actor in the video. However, William also acknowledged the critical role of the media in promoting police transparency and accountability, noting that news outlets need access to body camera footage in order to fulfill this role.

Owen emphasized the importance of protecting existing footage, though he didn’t find it desirable to constantly record. His desired policy was first and foremost in line with federal and state laws, but also included clear guidelines for how footage could be used and not used based on his own experience wearing a body camera.

What has to be done is that there has to be policies that make the police officer and the public not feel like they’re being continuously recorded, and that evidence of that footage is not going to be erroneously used...Let’s say I’m talking to a member of the public and they say something distasteful. I can’t use that footage and put it on YouTube, right? If they didn’t say anything illegal…I remember going up to a house fire and a man running out of the house naked once. I shouldn’t be able to take that footage and post it anywhere, or the gentleman’s privacy would be ruined.

There are infinitely many situations that might be captured on body cameras that members of the public might want to keep private. Whether back-end protections could replace front-end exceptions remains unclear. As of now, it is only clear that more attention should be paid to determining what happens to body camera footage once it’s recorded.

*III. Review of Body Camera Footage*

One of the aspects of body camera policy that was most hotly debated by the interviewees was the question of whether officers should be able to review their own body camera footage before making a report after a critical incident such as an officer-involved shooting. Both Owen and Nelson believed that officers should be able to review their footage before making a statement after a critical incident. Both men cited the effects of trauma on memory, which appears to be a popular narrative within law enforcement. Nelson was especially insistent, saying:

If you don’t let them review the footage basically you’re putting them in a tricked bag. You are potentially sabotaging them to refresh their memory the best way they possibly can….if you don’t allow the officer those things to help their memory what you get is an incomplete memory. You get a memory that’s been filled in with details that they think happened because they’re trying to fill in blanks. Memory is not a recording. That’s not the way it works. Period. And if you want the most accurate memory, especially after a traumatic event, you have to use mechanisms that allow that to occur.

His points echo those commonly set forth by law enforcement, namely that officers should have all possible resources at their disposal to promote better recollection of traumatic events. Owen took a slightly different approach that was not necessarily as sympathetic to officers. He recounted his own faulty memories during critical incidents, recalling a time when “I thought I fired my gun three times, and I actually fired my gun fifteen times. The automatic reaction of being nervous, and the adrenaline, and you don’t remember things exactly.” Clearly, there is a narrative within law enforcement that because memory of critical incidents has proven to be flawed, officers should have all available resources at their disposal to give the most accurate account of events possible. Owen countered the argument that officers shouldn’t be allowed to review footage after a critical incident by pointing out that even if officers intend to be dishonest, allowing them to review footage isn’t necessarily a bad idea.

As soon as a critical incident happens you are no longer the investigating officer - someone is investigating you. So you no longer get to review the tape. And that’s when many, many times police officers get caught lying...another great reason why cops should get to review the video if it stops them from lying.

Although the first part of his statement seems to rationalize the view that officers should not be able to review their body camera footage before making a report, his point that reviewing footage might actually prevent officers from lying is an alternative perspective to that which suggests that officers might use the footage to lie more effectively.

William was able to understand both sides of the argument, saying,

Some would argue that officers should not be allowed to do it [review footage] because the feeling is that if officers review it then they’ll make up their story to support the events. On the other hand…some departments have said we’re not interested in playing a game of gotcha with the officers. If you allow them to look at the video ahead of time, they’ll actually be able to give you a more accurate depiction of what happened.

While he can see the concerns that stem from allowing officers to design their testimony to fit video evidence, he also makes the important point that preventing officers from viewing footage might undermine the trust between department administrators and the rank and file by engaging them in a game of “gotcha.”

Aside from William, interviewees outside law enforcement felt almost universally that officers should not be able to review footage in cases of officer-involved shootings. While Alex agreed that officers should usually be able to review footage, he emphasized the importance of making exceptions for critical incidents.

If an officer is involved in a critical incident like a shooting of a civilian I think we need to have different rules around whether or not the officer can view the body camera footage…some members of the public are gonna think that the officer got the chance to review his body camera footage you’re basically giving the officer a chance to tailor his testimony to the evidence, which as a general rule is not the ideal procedure…Especially in critical incidents…appearance of impropriety is really important…if there’s even an appearance that the police are doing something to bias the investigation that can really harm the legitimacy of any eventual finding.

For Alex, allowing officers to view footage after a critical incident was both a problem for judicial legitimacy and a problem for public perception, which is especially fragile after high profile critical incidents. As has been proven time and time again, poor handling of officer-involved shootings can significantly damage police-community relations and even government-community relations.

Bryson echoed this perspective. His sense is that many police departments ensure that their policies or union contracts specifically allow officers to review footage in response to misconduct allegations and after officer-involved shootings. His response to police arguments was to point out the ways in which their claims may be hypocritical. “Of course, they’ll argue that this is their right but I think it’s tough to say they would provide that same opportunity or due process to someone who’s being alleged of a crime – to review their actions beforehand.” Essentially, Bryson claimed that if police officers are allowed to review footage before they respond to possible incidents of wrongdoing, members of the public should have the same opportunity when they are accused of misconduct following a similar trauma.

Laura understood from a legal perspective that while officer review of footage after regular interactions such a vehicle stops might be beneficial, officers’ review of footage following incidents in which force was used, especially deadly force, might be counterproductive to collecting unbiased testimony. She would prefer to “ask them to write their account before they see the video because the video may not show everything, and so then they could leave out what they know is not in the video... if somebody is allowed to review the video before they give an unblemished account then they may change their narrative.” Laura approaches this question the same way she might approach allowing other witnesses of an incident to see footage before giving testimony: not a good idea.

Another group whose ability to review footage is contested are supervisors. While it is generally agreed that body camera footage should be reviewed as part of internal investigations into complaints or as part of a conduct review based on other sources of information, discipline that derives solely from body camera footage is a sensitive subject for many officers. William, whose research involved extensive officer interviews, explained,

Individual officers were concerned with things, for example, that this is the department recording their activities in the hopes of catching them doing inappropriate things…like if it’s department policy that you’re not supposed to smoke on duty but a body camera catches me smoking a cigarette, I’ll be written up for that.

While William reported that officers were generally confident that their critical decision-making would prove to be justified under review, they were concerned that constant surveillance would allow the department to punish minor policy violations in a manner that they believed was unfair.

Nelson discussed the difficulty of navigating this tension at length. In his department, the body camera policy allows supervisors to periodically review a selection of their officers’ body camera footage. Although supervisors are not looking for disciplinary material, they can act on such material if they find it.

We use the footage for our reviews, for internal purposes for quality control, to see the quality of interactions between the officers and the public, to see exactly what’s going on, and to see if the cameras are being utilized properly and to make sure that the officers are behaving appropriately….Occasionally there can be a little bit of discussion about well it’s not supposed to be disciplinary. Well yes you’re right, but when it rises to a certain level we have to do more, we have to investigate further and it may become disciplinary. We can’t act like the monkey with the blindfold because no one reported it to us, and this was the only way we found it.

Nelson’s department is able to achieve what he sees as maximum utility from the body cameras because they are able to conduct regular reviews of footage. Although there is sometimes conflict between the rank and file and the administration when body camera footage is used for disciplinary purposes, Nelson believed “if you don’t have a mechanism in place to routinely review footage then you’re missing important things.” In his department, issues identified through this routine review have ranged from officers taking notes near their chest and accidentally blocking the view of the camera to the use of problematic tactics that officers may not have realized conflicted with legal guidelines.

Laura was aware that supervisors in some are supposed to be reviewing footage, but had doubts about the effectiveness of this strategy.

We’ve identified officers who routinely stop people and search their cars and then let them go because they didn’t find anything and that’s just from us FOIA-ing or subpoenaing their body-worn cameras…I’m assuming that supervisors are not seeing this stuff and condoning it but I don’t know.

From Laura’s perspective, simply having a review policy is not sufficient. Though compliance levels likely vary between departments, Laura’s experience suggests that additional oversight may be needed to ensure compliance with supervisory review policies. Her point was that if she and her colleague Xavier are finding unconstitutional behavior using the Freedom of Information Act and extensive footage review, supervisors should be able to find and address that same pattern of behavior with far less effort. While Nelson and Kelly both reported that their departments intend to use body camera footage to help officers learn and correct problematic behaviors, this intention may not translate into practice.

*IV. Release of Body Camera Footage*

Once body camera footage exists, policymakers must determine when and if it can be released to the public. While members of the public are often insistent on seeing body camera footage, police departments have varying responses to this pressure. Alex spoke about this from his experience working with police departments.

There’s wide disparities in video release policies. The way a lot of these laws work is that if the body camera is related to an ongoing investigation they don’t release the footage…well that’s the only incidence that people ever care about…there’s some concerns that explain why you might not want to release all of the footage right away…you want to be able to conduct your investigation without people seeing the footage so they can tailor their testimony. I think all that’s important but you gotta release footage, and you gotta do it fast, otherwise what’s the point of body cameras?

While he understood that releasing the footage might not be plausible while investigators are still collecting witness statements, he believed that failing to release the footage undermines the fundamental purpose of body cameras as a transparency mechanism. If the public cannot see the footage of a critical incident because it’s part of an ongoing investigation, then why wear body cameras in the first place?

Bryson seemed to agree with this perspective, advocating for immediate release of sensitive footage. “I think you should release it right away as a department because it allows for more transparency, if you’re trying to build more legitimacy...I think there’s a lot of benefits to having it out there first and not cleaning it up later.” His argument was based on the public’s conception of the purpose of body-worn cameras as mechanisms for increasing accountability rather than on law enforcement’s sense of the purpose of body cameras. His argument would hold if police departments were using body cameras to build legitimacy, but not if their purpose were to collect better evidence or to address misconduct claims, as is often the case.

Elijah agreed that footage should be released in a timely manner, citing it as one of the most important determinants of a body camera program that effectively improves transparency. “[Footage] should be public knowledge. Even with a major incident that stuff should immediately go to the news feed. What’s the purpose of the body cameras? Transparency – that’s what y’all say, so yes, I think definitely they should share that information and footage.” Elijah saw the release of footage as fundamentally linked to what is often presented as the primary purpose of body-worn cameras: increased transparency. He also hypothesized that the release of body camera footage may prevent public outcry.

It eliminates the community hostility, because if the officer’s in the right, they kinda pipe down some. It calms the tension. Not knowing, you’re automatically gonna draw your own conclusion – the officers is wrong! The officers is wrong! It [releasing the footage] is better for the community and it’s better for the police as well, that is, if they doing what they’re supposed to do…once you see it, you can’t argue that’s the truth.

Elijah believed that allowing communities impacted by high profile shootings or other police-involved events to see the footage as soon as possible could prevent undue anger at the police. The extensive history of distrust and mistreatment between police officers and communities of color can, according to Elijah, sometimes cause community members to assume the worst. Body camera footage serves to mitigate that reaction and improve trust by providing a truthful account of what occurred.

Those within the law enforcement field usually focused more on the purpose of body cameras for evidence collection and argued from that perspective that releasing footage of an ongoing investigation might compromise the investigation’s integrity and effectiveness. Owen explained that in the beginning, body camera footage was released more freely, but prosecutors began to realize that in high profile cases it was nearly impossible to find a jury who had not already seen the footage. Now, he said, you’re “hard-pressed to get a video of an incident that’s going to trial immediately afterwards.” In these instances, the public’s need to access an objective source of information conflicts with the prosecutor’s need to build an effective case. However, there are moments when particular footage is in high public demand, and it isn’t related to an ongoing case, usually in cases when an officer has been wrongly accused of a crime and the footage has no evidentiary value because the officer behaved lawfully. Owen explained that in some cases, “the community might say look, this terrible thing has happened, we all want to know the truth, don’t leave us wondering what happened, release the video.” In these cases, Owen believes releasing the video is appropriate and necessary. The scenario he describes is one in which releasing the video would exonerate an officer. He mentioned that in these cases, some cities use a review board with representatives from the police department, the district attorney’s office, and the community to watch the video and vote on whether it should be released. This allows the community to have their own representative taking part in the decision-making process, giving the final decision more legitimacy in the eyes of the public.

Kelly seconded Owen’s example about the power of sharing footage with the community after a critical incident with a story of her own:

We had an officer-involved shooting and the department released the footage within 24-48 hours and it was a relief to the department and the public...after it was released you had people thanking the police for what we do...the officer didn’t want to shoot the subject at all, and you can see that on the footage.

This is a helpful anecdote in the sense that it illustrates one power of body camera footage, however Kelly’s account represents the best-case scenario for many departments. She refers to a case in which there were no other investigatory concerns preventing public release of the footage, and the officer followed department policy perfectly. Kelly also noted that sometimes the existence of body camera footage adds to tension between the police and the public during investigations in which departments decide that they cannot release the footage because “people feel the department is covering something up.” The public knows that the footage exists, and is frustrated and suspicious when the footage is withheld.

Another stakeholder group that had a practical interest in keeping footage confidential were the legal professionals who planned to use the footage in their cases. While Robert was sympathetic to community concerns, he also felt that releasing footage often presented a real impediment to a prosecutorial investigation. He stated,

It [footage] changes narratives of witnesses and victims and what people say in response or even lines of investigation, and all of those things are important to making an assessment about a person’s credibility, what their observations are, making sure they’re not tailoring their testimony to other evidence… I think in your role as a prosecutor the preference should always be not to make public disclosures until you ultimately try a person. Does the police department have a different prerogative or do publicly elected officials have a different prerogative? Certainly. But I think as a prosecutor I think it impedes doing impartial justice.

While Robert understood that other stakeholder groups might have different interests, he was clear that releasing footage was rarely in the interest of the prosecution when trying to put together a case. Interestingly, his legal assessment confirms the argument against allowing officers to view critical incident footage before making a statement because it outlines the legal problems with allowing witnesses to tailor statements. Laura also agreed that lawyers have an interest in conducting interviews without witnesses having seen the video, but felt that it should be up to the subject of the video or the family of the deceased to make a final decision after a critical incident. She shared,

I could see allowing the family of the person who was abused or slain to object and say, ‘I don’t want that released.’ They should be allowed to see it though. And if they don’t object and say ‘Yes I want it in the public domain because I want my fellow citizens to see the behavior of the police’ then yes they should release it immediately… when you have police making the decision on whether to release police video where there are potentially illegal actions by the police being caught on that video you’re not having an unbiased objective person making the decision.

Laura made the important point that those most deeply affected by the footage should have a voice in decisions make about publishing or not publishing it. She was reluctant to trust police officers who may have conflicting motives to make decisions that support the public interest.

It isn’t only that high profile footage is usually part of an ongoing investigation that makes police departments reluctant to publish it; the process of publishing footage can also be time consuming and intensive. Nelson’s department doesn’t allow public access to footage, but he knows that a lot of other police departments do.

We do not have to be concerned about people simply submitting a request to see body camera footage that could be a violation of someone’s privacy just because they want it, or just because they’re entitled to it under the law. And then being concerned about releasing it, or redacting and then releasing it, which is an extremely expensive and time-consuming proposition for municipal agencies. They devote a lot of time and expense to handling freedom of information act requests for footage, whether it’s body camera or in car, and redacting what shouldn’t be released.

Nelson’s statement sheds light on the complexity of the process behind the release of body camera footage. While the Freedom of Information Act and open records laws in many states give citizens legal access to body camera footage, privacy laws restrict what they’re able to see and who can appear in the footage. Especially for smaller police departments, the process of ensuring that these complex laws are followed when releasing body camera footage can be a serious drain on resources.

*V. Implications and Uses of Body Camera footage in the Judicial System*

Thus far I have discussed the role of the judicial system in shaping body camera policy. However, body cameras and the evidence they provide may also affect the judicial system and the way that cases are prosecuted. Owen spoke about this on several occasions. He seemed to feel good about the fact that guilty people were being more effectively prosecuted, but he wasn’t so sure about the effect of body camera footage on juries and the validity of the longer sentences that juries are imposing.

It shocks the conscience of members of the jury when they see something versus reading it or hearing verbal testimony. But I don’t think that just because something is out of the norm for the experience of the jury means that they should think this is a completely abnormal behavior. Right? Like oh my god that person is shooting heroin into their arm, how terrible…I think body camera footage should be introduced in cases parsimoniously, basically, it shouldn’t just be the be all end all.

While body camera footage may be a helpful tool, Owen did not believe that it should be the only determining factor in a case, possibly because it may activate the biases of the jury more than verbal testimony. He recommended using it when necessary, but ensuring that other, more humanistic forms of evidence and testimony were also considered. He also believed that body camera evidence favored the prosecution and the testimony of the police officers.

The prosecutors are more able to use the video than the defense attorneys. Turns out that police officers are more honest than people thought about planting evidence and doing all of those wrongful arrests. People are more guilty than they say they are.

Interestingly, Owen’s perspective seems to contradict what those in the legal field believe to be true. While both Robert and Laura both reported that the body cameras supported their clients, neither person claimed that the footage was more advantageous to one side as opposed to another.

Bryson had the most cynical view of the courts. Rather than seeing them as overly receptive to body camera footage, he seemed to think that in cases of officer wrongdoing, juries would be so concerned by the content of the body camera footage that they would excuse the officers’ behavior due to fear. “My biggest fear is that it intersects with the judiciary and in a lot of cases, they’ll see that the officer was still scared, even though they were in the wrong. And if you have a biased jury it doesn’t really matter. So with body cameras, my concern is that it might just be solidifying an already bad system.” He believed that putting body-worn camera footage in front of a jury might not yield the desired response, perhaps because, as Owen pointed out, members of the public are not accustomed to seeing the violence and poverty that police officers see regularly. This discomfort may make juries unreliable judges of body camera footage, re-enforcing the some of the biases that members of the public hoped body cameras might address.

Robert and Laura’s responses seem to suggest that in fact body cameras may reduce the biases of judges and juries by strengthening truthful testimony. Laura explained, “Before, judges were always believing the police version...the more of these videos they see, the more they start to believe that maybe not all officers are telling 100% the truth when they get on the stand.” In her experience, body camera footage has helped her convince judges who are biased toward law enforcement that police officers may not always be entirely honest in testimony. Robert, on the other hand, spoke about times when he litigated cases with a “jury pool that happens to be more skeptical of police,” forcing him to “fight an uphill battle” to prove that what the police officer said they saw was accurate. In those cases, he felt that “body camera would have been extremely helpful to corroborate.” While Robert and Laura approached judicial bias from opposite directions, they shared the sense that having body camera footage to support someone’s statement forces judges or juries who might otherwise be biased against that individual to take their testimony more seriously.

*VI. What Body Camera Footage Fails to Capture*

Although body camera footage does provide perhaps the most objective account of a situation available, it still has limitations, some of which may be underappreciated in popular dialogue. Not only is the release of footage limited by privacy laws, but the perspective from which the video is taken is often flawed. Nelson was concerned that the public didn’t understand this limitation.

People assume that body cam footage is the authoritative indication of what happened, which is not the case at all, because body cam footage for one thing is almost never what the officer actually saw. It’s never at eye level. It’s never turning with the officer’s head. It’s not the officer’s perception - it’s recording what the front of the officer would see…it’s not necessarily the officer’s perspective even if it is on their body.

This perspective may help to explain why officers often look at a body camera video and see something completely different than individuals outside of law enforcement. In these cases, those within the law enforcement field may echo Nelson’s argument about what the camera fails to capture.

William also stated that while the record captured by body camera footage may technically be unbiased, the interpretation of events based on the footage is still subjective.

There’s the idea that if a picture is worth 1,000 words, than a video will be worth even more, and I’m not so sure about that…Even if the video is fairly clear, the interpretation is somewhat in the eye of the beholder. You and I could look at the same video of a controversial interaction between an officer and a citizen and reach very different conclusions about whether or not the officer’s activities were appropriate. The first time I ever saw a police officer have to take someone down it looked like one of the most brutal things I’ve ever seen. Now...I know that the first time that I saw it, it was actually the safest and quickest way for the officer and the subject for the officer to gain compliance of the subject.

Even aside from problems with the quality of the video, William made the important point that knowledge and perspective may change the way that two individuals with different backgrounds and experiences view the same footage. His own anecdote about how exposure to police practices and footage changed his original perception is striking, and may be concerning in light of the earlier discussion about how body camera footage is presented to juries.

Robert felt that the usefulness of body camera footage in court was somewhat overstated. He felt strongly that while body cameras were a helpful tool to corroborate witness statements, “From a trial presentation standpoint, body cameras are often not as useful as they might otherwise seem…it can be very difficult for a juror to watch a shaky body camera...sometimes it’s not pointed in the right direction...it’s not a complete fail-safe.” While having body camera footage was helpful in Robert’s experience, it was certainly not enough on its own, and the footage itself was frequently flawed.

Interestingly, Owen was more focused on a different aspect of what body cameras fail to capture. Like Nelson, he was worried that members of the public might assign too much authority to the body camera footage specifically in the context of court cases, but he emphasized the objectivity of body camera footage as a possible weakness.

It doesn’t create any sympathy or empathy for the people involved, so it reduces the human side of whatever is happening in that footage. That’s why I think the sentencing has gotten stricter as people look at these videos – they’re like look at this cop doing something bad or this civilian doing something bad, they must be bad people just based on this short footage without looking at the context.

Owen hypothesized that because body camera footage removes human context from a situation, this lack of empathy could be making sentencing stricter. When too much weight is given to the body camera footage, there is danger of that footage becoming the single defining factor in the subject’s life.

Finally, Laura pointed out that not all police officers wear body cameras. Entire units are not equipped with body cameras, and Laura said that these same specialized units are “sent to black and brown communities at a much higher rate than white communities.” Any conversation about the merits and shortcomings of body camera footage is pointless if the officers in question are not wearing body cameras in the first place.

Policy Recommendations

“The advantage of American policing is that you have 17,000 police departments. The disadvantage of American policing is that you have 17,000 police departments, all of which have different policies…when you introduce something like body cameras to a police department they may have differential impacts from place to place because cities are different.” – William

The quote above is meant to illustrate the most important policy recommendation that arose from this research; policies must fit community needs. All police departments are different, and while it can often be helpful to examine and refer to exemplary policies from other departments, each police department exists within a unique context and must craft its policies to fit that context. This context includes political challenges that may stem from the city’s relationship with the local police union, the community police relationship and history in the area, and the financial resources available to the department. The recommendations in this section are designed to be implemented at the department level since that is the level at which the vast majority of policing policy operates. Hence, these suggestions are directed primarily to department administrators, police oversight bodies, local government officials, and any other party involved in policymaking at the department level. It is important to note that there are exceptions to the department-level standard in which state level legislation is appropriate and has been successful, one of which will be discussed below.

One of the challenges of policymaking in this area is that stakeholders have different goals for body cameras, and police officers, community members, prosecutors, police unions, public defenders, academics, and activists or nonprofit workers are unlikely to come to an easy consensus on effective body camera policy. It is the responsibility of the policymaker to understand each of these perspectives and to create a policy that balances multiple stakeholder interests. Policies must function effectively in the social, legal, and political context of the police department. Policies should balance the various purposes of body cameras including evidence collection, transparency and accountability, and complaint resolution, attempting to allow each purpose to be at least partially fulfilled while acknowledging that there are trade-offs between goals. In addition, policymakers may be able to take a key role in facilitating improved communication between stakeholder groups, since analysis revealed areas in which mutual understanding was absent. Educating the public so that they might make informed contributions to the policymaking process is an important opportunity for decision-makers. These multiple issues make policymaking complex, but they may also provide policymakers with grounds to encourage buy-in from diverse stakeholder groups. While universal recommendations are difficult to design, the following have emerged from this research as widely applicable best practices.

I. *Recommendation: Create and adhere to a policy that dictates the timely release of body camera footage after a critical incident*

One of the themes that many stakeholders mentioned as critical to the successful implementation of body cameras is the release of body camera footage. As with many aspects of body camera policy, an effective release policy must balance privacy, evidence collection, and transparency. Several stakeholders mentioned the handling of the Laquan McDonald footage as an example of poor footage management, but crafting an appropriate policy in this area is not easy. For a positive example, we can turn to the LAPD and the California state legislature. In 2018, the Los Angeles Police Department and later the California State Government enacted new policies that permit body-worn camera footage to be held for up to 45 days if its release would impede an ongoing investigation. The state law dictates that footage that would violate the reasonable expectation of privacy of a subject should be redacted, and if it cannot be redacted effectively, it should be disclosed to the subject or to a close relative or representative if the subject is deceased (Legistlature.ca.gov, 2018).

While the relationships between municipal police departments, police unions, community members, and state legislatures are different across the country, this policy has several key features that make it an excellent baseline for future policymakers. First, it establishes a reasonable deadline by which something must be done with body camera footage. This gives community members a clear understanding of when footage will be released, and for what reasons it can be withheld. This also avoids ineffective or ad hoc handling of critical incident footage in the absence of such a policy, as in the case of Laquan McDonald. While 45 days may seem to be a long time, it balances the need expressed by Robert and Laura for prosecutors and defense lawyers to interview witnesses before information about the case becomes public and to make decisions about the case based on their credibility. The California state policy also offers transparent solutions to address privacy concerns, including redacting the footage before releasing it to the public and disclosing the video to the subject, their family member, or their authorized representative (California Assembly Bill No. 748). While releasing a video to the deceased’s family members is not as transparent as releasing it to the public at large, it is likely that the community will be far more understanding if someone outside of the police department or city administration is permitted to view the footage. Owen also mentioned that some cities use civilian or combined civilian-police-attorney review boards to make decisions about body camera footage. Cities with established police review boards may consider using these entities to review body-worn camera footage in cases in which footage cannot be released to the public in redacted form.

Releasing footage to the family of the deceased is presented in the California state policy as a last resort. Instead, there should be a specific provision that requires footage of a critical incident to be released to the family within a much shorter timeframe, perhaps within a week of the event, as long as family members are not themselves the subject of investigation. It is highly important that families are allowed to see the footage before it is released to the public, in order to prepare them for the public reaction as well as to provide them with the answers they deserve. Even in cases where the department has an interest in releasing footage quickly to quiet public protest and demonstrate transparency, the families of victim or the victim should be able to review the footage first.

Lastly, any policy about the release of body camera footage should be created with the context of local open records laws as well as other applicable municipal or state policies in mind. The application of open records laws to body camera footage remains a largely unexplored legal issue, hence policymakers should have a strong grasp of the legal context of body camera footage release policy and ensure that it aligns with local laws appropriately. Since open records laws are often enacted at the state level, footage release policies may be implementable at the state level as well, as seen in California. However, since police departments in many states exist in a variety of contexts and circumstances, department-level policy should lead the way for more comprehensive policy.

II.   *Recommendation: Allow for the regular review of body camera footage by supervisors*

One step that departments can take to maximize benefit from their body cameras is to have supervisors regularly review the body camera footage of the officers they supervise. In order to make this a practical task, a random selection of footage should be used rather than the entirety of the footage available. Reviews should be conducted on a regular and systematic basis, and any concerns raised, whether minor and practical or serious and disciplinary, should be recorded and should receive follow up.

The challenge in this area is creating a policy that allows supervisors to take corrective or even disciplinary action based on the contents of the body camera footage without officers rejecting the cameras because they see them as a tool for officer surveillance. While officers who don’t have previous body camera experience may understandably be concerned that any review of the footage might imply that they will be punished for every small misstep, officers who have adjusted to the implementation of this technology rarely share these concerns. Though this balance may be difficult for supervisors to achieve, it would be a great loss if they were unable to review random sections of the body camera footage of their officers.

Review of footage is important for several reasons. First, as Nelson described, there are often small procedural adjustments that officers can make to ensure that footage is being captured effectively. If an officer is taking notes in such a way that the camera is blocked, key pieces of footage may be missing due to a problem that is easily corrected once it is identified. Second, as Kelly mentioned, supervisors can use footage to further train officers. If a behavior is identified as problematic but not a clear violation of policy, supervisors can use the footage to help officers understand what they did wrong and how they might improve. Finally, if there is material of disciplinary concern on the footage, regular review may allow administrators to catch dangerous behavior before it creates larger problems. This final use of the footage is only effective alongside an active and fair internal disciplinary and review process. When the appropriate structures are present, body camera footage can provide a valuable resource.

III. *Recommendation: Design clear guidelines for camera activation and monitor compliance*

Camera activation is another critical aspect of body camera policy. Specifically, comments from Peter and Elijah about the fruitlessness of having body cameras if they aren’t activated during critical situations seem poignant. The previously mentioned meta-analysis by Ariel et al. (2016) revealed that limiting officer discretion in camera activation led to decreases in use of force, while leaving activation up to officer discretion resulted in increased use of force. Although privacy protections are critical, these protections can often be applied once the video has already been captured by limiting and keeping records of video access, as well as by redacting videos where appropriate in accordance with privacy guidelines. Although stakeholders acknowledged the sensitive nature of capturing body camera video of vulnerable populations, leaving it up to the officer to decide when to activate the cameras or asking officers to activate the cameras during rapidly escalating situations seems unlikely to produce comprehensive and useful footage. Instead, policy should be designed so that officers record as much as possible while on active duty. It may not yet be feasible in terms of data storage or battery life for officers to keep cameras running for the entirety of their active shifts, but as technology improves, this should be the gold standard. Exceptions may be necessary for instances in which the officers have personal phone calls while on duty, stop to use the restroom, or meet with sensitive informants.

Since the technology may not yet be able to capture the entirety of an officer’s shift, an alternate policy for officers that patrol in cars might be one in which the camera is activated, perhaps even automatically, when an officer exits their vehicle. This way, private conversations inside the vehicle and content-less driving footage are not captured, while interpersonal interactions are captured. While this would mean that body cameras don’t capture vehicle pursuits or incidents in which the officer does not leave their vehicle, dashboard camera footage can fill this void. This proposed policy is not applicable for officers that patrol on foot, hence it may be more practical for departments to ask those select officers to record their entire patrol shifts. This would place less of a strain on technical resources than having all officers record their entire shift.

Policies about camera activation should be enforced by supervisor review of body camera footage. While these reviews should not appear punitive, body cameras do not promote accountability or transparency when they are not activated. If body cameras are to serve the public’s desire for transparency and accountability, community members have a right to know that officers will be held accountable for failing activate their body cameras. Departments might consider a graduated disciplinary process in which the first or second activation violation incurs a warning while subsequent violations are handled more seriously. Additionally, departments should be required to publish information about how much footage they review, what types of actions are taken as a result, and how frequently those actions were taken. Many departments already publish some data on officer discipline, and adding more detailed information about the role of body camera footage in these publications could address some of Laura’s concerns that departments are not actually engaging in review of footage.

Activation and compliance monitoring policies will likely need to be enacted on a department level given the internal tensions they evoke between officers and administrators. Otherwise, large-scale policy change may not reflect critical buy-in from individual departments and officers. State and federal government agencies can help departments by reducing the financial burden that increasing the quantity of footage captured imposes on departments. For example, during the Obama administration, the Department of Justice awarded over $23 million to local departments to support implementation and expansion of body camera programs (United States Department of Justice, 2015). While the federal government and state governments may not be willing to dictate universal policy in this area, they can give departments more freedom to make responsible choices by making funding for storage and processing of body camera footage available.

IV. *Recommendation: In instances where deadly force is used, officers should not be permitted to review body camera footage before making a formal statement*

This question was perhaps the most divisive question posed to participants throughout the course of this study. Those in law enforcement vehemently insisted that memory of traumatic incidents is flawed, and departments have a responsibility to give officers all of the information possible in order to make an accurate report. Not only do they believe that officers have earned this right by walking into dangerous situations on a regular basis, but Owen also pointed out that showing officers their body camera footage could make them less likely to lie, because their story must match the evidence shown in the video. Withholding this video places police administrators in an uncomfortably antagonistic position with officers who arguably need their support, potentially damaging trust levels and relationships within the department.

On the other hand, it is generally accepted within the legal field that it is bad practice to show a witness critical evidence before they make their statement. Laura and Robert reinforced this sentiment. Law enforcement officials sometimes employed the same logic when arguing that body camera footage should not be released until the subsequent investigation has been concluded, citing concerns that witnesses will change their statements to fit the evidence. Allowing officers to review footage before making statements may also harm the perceived legitimacy of the investigation and create a barrier to transparency and trust, damaging police-community relations at a time when they are likely already strained.

Interviewees on both sides of this issue made important and convincing arguments. However, analysis also revealed a deeper issue at play: the combined tendency of law enforcement to fear punishing officers or admit wrongdoing and the desire within law enforcement to elevate officers to superhero status. This tendency can also be seen in the unwillingness of those within the law enforcement field to consider applications of body camera policy in scenarios where officers did something that warranted discipline. Prosecutors never talked about situations where they might be prosecuting an officer, and officers were generally unwilling to talk about the appropriate response to high stakes mistakes made by fellow officers. Fundamentally, this issue gets at the heart of the challenge to hold police officers accountable for the use of their power and simultaneously accept that they are human. We must expect officers to do their best to serve and protect their communities, while acknowledging that their best may not always be perfect. In asking officers to make a statement before reviewing footage, we are not treating them as superhuman nor are we asking them to be. Instead, this policy treats officers as important witnesses who are just as capable of honesty and prone to deceit as civilian witnesses, and just as deserving of physical and mental health treatment in the aftermath of traumatic events. If their testimony is flawed or shaped by the trauma they have experienced, surely the judicial system can treat them with the same consideration and understanding as civilian witnesses who experience similar trauma. Once the footage and the officer’s testimony as well as that of other witnesses have been reviewed, a more informed decision can be made as to whether the officer’s actions were justified. The questions of who reviews this information and how investigations proceed are critical to the success of this policy, but are outside the scope of this research.

An important clarification on this topic is that policy can, and in many cases should, differentiate between protocol following a critical incident such as an officer-involved shooting and protocol following a more common event such as an arrest or citation. In the second case, it is practical for officers to review their footage in order to record accurate witness descriptions, sequences of events, and to continue their training. Special policies on officer review of footage should first be limited to incidents of deadly force to make implementation feasible, and later may be expanded to other use of force or incidents in which the officer or a civilian is injured.

V. *Challenges to Implementing Body Camera Policy*

The reality is that implementing body camera policy is far more complex than simply writing a effective policy. All policies are passed and enacted in a complex political context, and law enforcement policies are no exception. Police unions play a critical role in shaping this context, and yet were not included in my analysis. Therefore, their influence on body camera policy will be briefly discussed now. Even in 2014 when body cameras were not yet widely used, the Fraternal Order of Police (FOP) was aware of them and concerned about them. In a 2014 PowerPoint presentation about body cameras posted to their website, the FOP lists the potential benefits of body cameras as “real-time evidence gathering,” “efficiency of prosecution,” “civil defense of officers and agencies,” “public trust,” and “impartial eye-witness” (Fraternal Order of Police, 2014). These are fairly similar to the points made by interviewees who were working or had worked as police officers, though in 2014 there was only minimal evidence to suggest that footage frequently worked to exonerate officers, whereas now there is more widespread anecdotal evidence to suggest this based on officer experience.

The major drawbacks mentioned in the PowerPoint include making officers feel as though they cannot be trusted and must constantly be monitored, privacy violations that might stem from filming officer breaks or locker rooms, discipline that could result from filming of union meetings or capturing officer comments against management, conspiracy theories arising from defective equipment, and “fishing expeditions for policy violations” (Fraternal Order of Police, 2014). Based on my knowledge, few of these concerns have been resolved or fully addressed, though the officers I spoke to did not seem to feel that their use of body cameras meant they were admitting they could not be trusted to act professionally. The PowerPoint also states clearly that “officers should have unlimited access to their own videos…prior to any questions, and especially after a critical incident” (Fraternal Order of Police, 2014). It seems that most officers’ position on that particular point has not changed.

In looking for newer sources of information about police unions’ position on body cameras I found several key lawsuits that shed light on the way this struggle has evolved. In 2017, the Chicago branch of the FOP sued the City of Chicago for their failure to bargain with the police union over the terms of the expansion of their body camera program. The lawsuit notes how lobbyists for the union worked successfully to “limit [police] management’s ability to troll camera footage for discipline purposes.” Indeed, the final language of the Law Enforcement Officer-Worn Body Camera Statute, which expanded the body camera program in Chicago, prevents the use of recordings for disciplinary purposes except where other evidence of wrongdoing was already present (Fraternal Order of Police v. City of Chicago, 2017). The ruling in the case was that the City of Chicago should have bargained with the FOP over the expansion of the body camera program. The police union contract currently in use by the City of Chicago was written in 2012 and expired in 2017. It limits the ability of departments to discipline officers if they don’t allow officers to review video and audio evidence before making a statement, but was clearly written before body cameras became a key concern (City of Chicago and Fraternal Order of Police Lodge #7, 2012). Mayor Lightfoot is set to begin negotiations with the FOP over a new contract once the city reaches an agreement with police supervisors (Gorner and Pratt, 2019).

Similar events have occurred in other cities. In Philadelphia, the SEPTA police in charge of public safety on the city’s transit system went on strike in 2019 largely over issues related to the use of body cameras. At the time, Philadelphia was one of the only cities with an agreement that prevented officers from reviewing footage before making a formal statement. The officers agreed to return to work once their contract was amended so that they were allowed to review footage before submitting reports and to submit supplementary statements if other evidence contradicted their statements. The new contract also prevents officers from being disciplined based on their supplementary statements (McCullough, 2019). In 2019, a panel of appellate judges in New York City struck down a lawsuit brought by the Patrolemen’s Benevolent Association, the largest NYPD union, against the City of New York and the NYPD. The lawsuit attempted to block public access body camera footage, citing privacy concerns for both officers and members of the public.

While brief, this review of the role of police unions in shaping body camera policy clearly demonstrates the power of these unions to ensure that body camera policy fits the ideal purpose of body cameras as seen by law enforcement rather than the frame of transparency and accountability promoted for and by members of the public. While it is important that police officers receive strong advocacy and protection as they do their work, the influence of police unions appears anecdotally to be a major impediment to creating a body camera policy that balances the needs of multiple stakeholder groups. Unfortunately, this study has no solution to the union problem, but policymakers of the future will need to prepare themselves to contend with this formidable force in the political field.

Another critical challenge to implementing policy that has already been mentioned is financial constraints. A 2016 survey conducted by the Bureau of Justice found that among agencies that had not yet acquired body cameras, the primary reason was the cost of video storage or disposal, closely followed by the costs of hardware and ongoing maintenance (Hyland, 2018). While the government can help to alleviate these burdens through programs such as the aforementioned Department of Justice grant program, the reality is that smaller agencies simply may not have the budget to implement body camera technology. This may change as information storage technology improves and the cost of storing footage declines. For now, it is important to ask whether money-strapped departments should spend what little they have on an incomplete body camera program or direct their funds elsewhere. By one argument, smaller, rural police departments may have less money and less oversight than their larger urban counterparts, and therefore might benefit more from the potential transparency and accountability offered by body cameras. However, the consequences of capturing and storing footage without expensive back-end protections might endanger the privacy of community members. It seems to me that given the uncertain impact of body cameras on critical metrics like use of force, smaller departments might be better served by devoting their resources to alternative programs. Clearly, budget constraints are a challenge that will continue to plague police departments as they consider adopting any new technologies, including body cameras.

Finally, it is important to once again mention the local nature of police departments as a constraint in policymaking. While model policies can be helpful and are frequently used by some police departments, each department must also consider it’s own size, location, budget, and access to technology as well as internal and external social and political dynamics. These individualized characteristics make it difficult to design and implement policies at the state or federal level that will be useful and relevant to individual departments. In some cases this can be avoided by designing state policy that only applies to departments of a certain size or departments that use a certain technology, but the solution is not always so easy. This is why my recommendations are geared toward department level policymakers.

Conclusion

By generously sharing their own experiences, interviewees revealed numerous complex applications of body camera footage. The footage can be used to prosecute court cases, though it should not be seen as the only authoritative evidence. Police departments can use the footage to better train and monitor their officers, though this requires a delicate negotiation of officer privacy and discipline. Body camera footage is a precious resource that both the public and officers want to access during critical moments, and compelling reasoning was presented both within and outside law enforcement as to why these groups both would benefit from access and perhaps why they should not immediately receive it. While recording interactions may protect the safety and legal rights of members of the public, it may also invade their privacy and create a record of humiliating or upsetting experiences.

If this analysis demonstrated anything, it is that body camera policy is very much an open-ended question, and actors across the law enforcement field are still struggling to come up with good answers. Many specific and difficult policy questions remain unanswered. Questions about the use of body camera footage in court and whether or not officers should notify civilians that they are being recorded remain complex and unanswerable solely based on this research. What did arise from this exploration, however, is that integrating stakeholder and community feedback into the policy design process and encouraging communication and knowledge sharing between stakeholders may help policymakers navigate these difficulties. For example, police officers might work more closely with prosecutors to bring context to body camera footage in court and provide juries with helpful background and comparative information so that footage is not interpreted as the single authoritative record of an incident. Cities like New York and Los Angeles have already partnered with nonprofit organizations and local universities to incorporate community feedback into the design of their body-worn camera policies, leading to the creation of policies like the California state law discussed above (The Policing Project, 2019). Effective and inclusive policy is not created in isolation, and policymakers have a wealth of stakeholder experiences and social resources to draw on throughout the policy creation process. While the impacts and effects of specific policies require more exploration, it is critical that departments think comprehensively about their body camera policy before implementing the technology. Whatever their answers to these difficult questions may be, it is the responsibility of the department to answer them proactively rather than retroactively, and to design a body camera policy that addresses these important policy questions head on.

Future researchers in the law enforcement field have a monumental task ahead. As the field seeks to rely more on evidence-based practice, researchers will need to critically examine existing practices while continuing to test and evaluate new technology. Body cameras are an important piece of this puzzle, and the judicial and social outcomes of implementing them demand attention. Importantly, these studies can use all three judicial, evidentiary, and accountability frames as a starting point to test the effectiveness of body cameras in each of these areas, using metrics that correspond to different stakeholder groups’ assessments of the purpose of body cameras. Additionally, researchers and scholars in the legal field must examine the application of privacy law to body camera footage, and decide whether body cameras actually lead to more convictions of civilians or police officers. Researchers should explore the ways in which this footage will transform the case discovery process as it already has in New York City, where prosecutors are now required to review and turn over massive amounts of evidence, especially body camera footage, to defense attorneys earlier on in the trial (Chapman, 2019). Another important area to study is impact of body cameras and related policy decisions on community trust in the police, level of police cooperation, and other public safety metrics. Finally, law enforcement indicators like the speed and rate of complaint resolution and the number of officer reviews and suspensions from body camera footage review merit consideration. These metrics should be compared across various policy contexts to measure the impact of different policies in areas that this study has explored such as camera activation and officer review of footage, as well as areas that this study did not examine. Body cameras are an area of study as rich and interesting as it is unexplored, and present an exciting opportunity for researchers who wish to delve deeper into policing technology with the potential fill a critical need for information. Policing policy impacts us all, especially communities of color, and both police officers and community members deserve policies that are informed by creative research and careful testing.

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Appendix A: Research Questions

* What is your professional relationship to law enforcement?
* Why did you choose this career?
* When did you first become aware of the technology?
* Can you tell me about a moment when a body camera or a related policy was helpful to you or impacted your work in a positive way? What about a negative incident or policy?
* How have body cameras changed the way you do your work?
* Generally, how do you and/or your colleagues view body cameras?
* Do you perceive any conflicts in opinion within or between stakeholder groups both inside and outside the law enforcement field?
* What do you believe are the effects of implementing body cameras in a police department?
* What considerations do you believe should be taken into account when implementing or designing body camera policy?
* Are there any policy questions such as camera activation, release of footage, or review of footage that affect your work? What are your thoughts on these policy questions?
* What is the purpose of body-worn cameras?
* Does their stated purpose ever differ from their impact? How or when? Which policy issues are most relevant to this discordance?