

March 10, 2021

Dear Members of the Public Safety Review Committee,

I am writing today to briefly indicate my stance on body worn cameras. I also listened to and spoke at several of Body Worn Camera (BWC) Feasibility Committee meetings.

I am strongly against Madison incorporating BWC into MPD usage. Although many hoped BWCs would offer a measure of police accountability, in practise, five factors work against this aim.

First, BCW footage is selective in its perspective. This means officers might be able to justify their behavior based on a perspective that includes only the victim or suspect's response and, importantly, not the stimuli or behavior that elicited the response. Even the simple fact of how the cameras are worn by officers while they are in motion would cause a disoriented (jumbled) view of a compliant victim/suspect.

Second, police have qualified immunity both in the courts and in the commonly held views of a majority white public. If, or once, released the public won't typically have had instruction to understand the perspective issue. Until there are adequate legal measures to hold police (and society) accountable. Many judges don't even look at BWC footage until later stages of a trial. On the matter of release of footage: it is rare that police departments release all available footage of an incident. Selectivity in the footage released provides another entry point for bias in favor of the police. Officers also have used BW footage to selectivity tailor their reports.

Third, likely due to the fact that BCW footage is from the officer's perspective, data examining the results of BWCs already in use show that body cam use actually has resulted in an increase in arrests for petty crime, not an increase in police accountability that was their aim. This end result will exacerbate, rather than mitigate, racial disparities in our criminal justice system.

Fourth, I have read about numerous examples when officers simply turned BWCs off.

Fifth, due their extraordinary expense in both time and money, several police departments are ending their BWC programs. The cost of the cameras, data storage, and viewing-processing personnel time has been found to result in an 8-10% increase in police department budgets.

In summary, the costs of a BWC program would be much more productively invested in redirecting mental health and substance abuse calls to a more appropriate agency. In Madison, incidents involving mental health and substance abuse have been one area in which the MPD has performed below acceptable standards given their lack of appropriate training and the tendency of police officers to escalate, rather than de-escalate a situation.

Sincerely,

Gisela Wilson, PhD

1244 Morrison Court

Madison, WI 53703

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Dear Members of the Public Safety Review Committee,

I am writing to you in opposition of purchasing and implementing a body worn camera system at the Madison Police Department. Such a system will be very expensive to run and maintain. The funds that would be needed to purchase and implement body worn cameras would be better spent creating alternatives to sending police for mental health, homelessness, drug or alcohol related incidents.

I understand that it is tempting to see body cameras as a technological fix to the problem of holding police accountable for their actions but there is no technological fix to a system that prioritizes punishment and control over addressing the root cause of problematic behavior and personal crises.

Body Cameras will not stop police from being called to emergency for which they are not trained or equipped. Please invest in communities and a first response system that does not send armed officers to every situation whether they are warranted or not.

Thank you for your careful consideration of this matter.

With Gratitude,

Evelyn Gildrie-Voyles

202 Farley Avenue

Madison, WI 53705

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March 10, 2021

Chairperson and Members of the Public Safety Review Committee,

I am writing to you today to urge you to accept the Final Report and Model Policy from the Body-Worn Camera Feasibility Review Committee. Whether we recognize it or not, we all have biases. Those biases come into play in public/police interactions. To minimize those biases and to illuminate situational facts, body camera video must be used to bring clarity to those situations.

A prime example of this can be seen in the use of police body-worn camera video in the defense employed by Des Moines Register journalist, Andrea Sohouri. After she was arrested during the coverage of the George Floyd protests in Minneapolis last summer, she used that video to prove her innocence in her court appearance yesterday.

Again, video will add clarity and I again urge you to accept the report and model policy.

Respectfully submitted,

Joseph Keyes

District 11

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Dear Committee Members,

I had earlier raised examples of serious errors in the Bodycam Committee report, including misinterpretation of scientific research. Bodycam Committee Chair Keith Findley denied any errors, and, specifically regarding his misinterpretation of the results of a 2018 study by Groff, Ward, and Wartell, told the EOC and PSRC that my “complaints are completely invalid”. This is an important matter since it concerns the potential for BWCs to contribute to further criminalization of low-level offenses by Madison residents (particularly in vulnerable, overpoliced communities).

I thus arranged for two independent qualified professionals to review the issue. Both were recruited by freelance science writer Kavin Senapathy. One of these (as I noted earlier) was Statistician/Mathematician Professor Brooke Orosz, Ph.D. (Division Chair at Essex County College, Newark, NJ). The other was Data Scientist Avneesh Chandra (of Graphika Inc.), who provided an additional review that I just received today. Neither had any prior involvement with BWC-related issues and neither was someone I knew. Thus, they could provide fully independent, neutral review. Each was provided a copy of the relevant study (Groff, Ward, & Wartell, 2018), the Bodycam Committee report, and my statement about the issue.

Both fully corroborated what I have been saying – that the Bodycam Committee report misstates the scientific results. And it does so in important ways, that lead to erroneous conclusions on a critical matter (i.e., the potential of BWCs to exacerbate overcriminalization, and how readily that could be addressed).

Here is the review that Statistician/Mathematician Dr. Orosz sent me:

I read the long working paper. What jumps out at me is that prosecutors only viewed the footage before deciding whether or not to file in a small percentage of cases, apparently because it would take too much time and the prosecutor's office doesn't have adequate staffing to support such an increase in workload.

More importantly, nothing here is at all blinded or randomized. According to the focus group work, prosecutors made the decision about whether or not to view the footage themselves, based on whether

they thought it was relevant to their decision. This does NOT show that prosecutors reviewing the footage reduces the probability of charges being filed, and overall, filing rates WERE higher among the group of crimes that had footage available.

That, as I interpret the study, is a key thing. There's no evidence that requiring prosecutors to view all footage would work, because nothing like that was tested here. Prosecutors chose not to view most of the time because they thought it was unlikely to change their minds. What if they're right?

Table 23 shows that there is a strong relationship between charges being filed and the availability of the camera footage, and that trying to control for covariates makes it look stronger, not weaker. In fact, in the adjusted model, filing rates were significantly higher even for crimes where the footage was watched.

So yeah, there is definitely evidence that body cameras increase filings. I agree with what you said.

Here is the review by Data Scientist Avneesh Chandra:

1. In my reading, Findley claims that the apparent increase in prosecutions related to BWCs can be eliminated by having prosecutors view BWC footage prior to filing. This seems consistent with your read.

2. In my reading, Groff et al seem to indicate that there is an observed decrease in prosecution rates when BWC footage is viewed versus when it is not viewed. However, given the small percentage of cases where footage is viewed, this observed decrease is not statistically significant. This seems consistent with your interpretation of the report.

3. Continuing on the above point, my read is that even if that difference were statistically significant, it would not eliminate the apparent increase in prosecutions, because the increase even when footage is viewed remains ~100% of, or twice as much as, when there is no BWC footage at all. This point is what is inconsistent with the following statement, which claims that a policy by which prosecutors would be required to view the footage would entirely eliminate the apparent increase in prosecutions associated with BWCs:

“Interestingly, the researchers also found that, while prosecution rates went up when BWC footage existed, that BWC footage had that effect only when prosecutors failed to review the footage prior to charging....”

I will add that I myself am a scientist (at UW-Madison) with a great deal of background in statistical analysis. Statistical modeling and interpretation of statistical analysis is much of what I do professionally.

One colleague asked why my own statements were insufficient – since I was well-credentialed and had the requisite background. I told them that the information I was providing was being dismissed, and thus I needed independent reviewers (corroborating what I was saying), to be taken seriously.

The underlying problem on the Bodycam Committee appeared to be one of motivated numeracy – a type of motivated reasoning where people “use their quantitative-reasoning capacity selectively to conform their interpretation of the data to the result most consistent with their political outlooks”. Studies suggest that professional judgement imparted by professional training and experience in a field (e.g., the field of science or statistics) imparts resistance to such motivated reasoning. Unfortunately, I was the only scientist on the Bodycam Committee.

Sincerely,

Dr. Gregory Gelembiuk

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Donna Collingwood

I'd like to register my opposition to body cameras for police.

Not only is this a very expensive proposition, studies have shown it does not add to police accountability. And officers have the option of turning them off at will. We do not need to be spending more money on police operations. It is already a huge part of the budget, and not serving all communities well. There are many dedicated and hard working officers, we know that. We need policies to address those that may have issues making them not the best candidates for the challenging work of a police officer. And mental and emotional support for all. Thank you.

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Hello,

I'm writing in opposition to the use of body worn cameras by MPD. The research does not show improvement in police behavior or an increase in holding officers accountable for their behavior. The police hold control of the video and therefore hold the narrative of the incident. This is not helping protect citizens but continues to protect bad and dangerous behavior by officers. This is a very expensive program. That money would be better spent on our students and the schools infrastructure, affordable housing, affordable and accessible healthcare including mental healthcare for everyone, healthful food resources for everyone, etc.

Regards,

Lisa Hansen

1302 Dewberry Dr, Madison, WI 53719

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Dear Committee Members,

Both of your committees meet this week and Body Worn Cameras for our Madison Police Dept is an agenda item for each of your respective committees.

I am writing to clarify that as a member of the BWC feasibility review committee, all of us on this committee spent many hours reading and discussing the agreed upon scientific literature, general information, and listened carefully to in person presentations. You will recognize that in reading the final documentation presented to you. Each BWC committee member was picked for a reason - because

each of us has relevant professional and in many cases personal context and experience to be sensitive and informed to this topic.

It was not without detailed consideration of multiple areas - pro's, con's, positives, negatives, risks and benefits that we worked as a team to produce the documentation given to you. I think that too will be obvious as you read our final report with a draft policy, a policy with suggestions that make the difference in the safety or dangerousness of a BWC.

BW Cameras are a tool. As with any tool they can be used well, or poorly. What makes the difference is in the rules, the policy, procedure, training, etc of the cameras and the officers using them. Not every risk can be prevented, but again, as with most tools, we can make their use and benefit worth the risk.

All of us that stayed on the BWC will certainly respect and support your final decisions on this topic. I just want to clarify that the information we presented is of a quality that is valid, legitimate, and done with the proper understanding of the importance of the topic.

Thank you for your work on this and all the topics you must address for Madison.

Klm Jorgesnen, LCSW, AODA Specialty, ICS

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Dear Alders and Committee Members,

I am writing once again, with further information on deficiencies (critical errors, omissions, etc.) in the BWC Committee report. Please see my attached letter.

One of the core tasks of the committee was review of the scientific research on BWCs. I was the only scientist on the committee. It seems that everyone loves a scientist, until they convey the science and it's something people don't want to hear. Too often, the response is then to attack the scientist and dismiss their input.

One major concern is that BWCs can increase surveillance and prosecution of low-level offenses, expanding overcriminalization of heavily policed BIPOC communities. I will add that, since the BWC Committee Chair continues to deny errors that I pointed out, in the report's interpretation of a key study on this topic, I submitted my analysis, along with the study and the BWC Committee report, to an uninvolved statistician/mathematician (Professor Brooke Orosz) to perform an independent review. Dr. Orosz fully corroborated my conclusions (i.e., the BWC Committee report makes invalid claims, understating the potential for BWCs to drive further overcriminalization).

Sincerely,

Dr. Gregory Gelembiuk

Dear Alders and Committee Members,

I am writing once again, with further information on deficiencies in the BWC Committee report. One of the core tasks of the committee was review of the scientific research on BWCs. I was the only scientist on the committee.

It seems that everyone loves a scientist, until they convey the science and it's something people don't want to hear. Too often, the response is then to attack the scientist.

Here are some of the fundamental types of flaws present in the BWC Committee report.

#### 1. Omissions of key BWC "cons" in the BWC Committee report

For example, the report fails to discuss that BWC video can exacerbate problems caused by dispositional biases. Dispositional biases are those motivated by culture, beliefs, values, and group commitments (conscious or unconscious) of the viewer. Sometimes this problem is also referred to under the term "cognitive illiberalism" (i.e., the unconscious influence of individuals' group commitments on their perceptions of legally consequential facts).

If bodycams are implemented, the conjunction of dispositional biases in perception of video and situational biases in perception specific to bodycam video may well make it more difficult to impose accountability on officers. I had submitted potential text about this con to the committee, but it was excluded from the report. As one study concluded,

[our] finding should give pause to advocates who hope that body cameras will make it easier to indict and convict police officers for excessive force. These results suggest that video evidence fails to reduce polarization significantly while simultaneously prompting fact finders who most strongly identify with police to become more unshakable in their judgments....

civil rights advocates embracing body cameras hope that more video footage will hold accountable police officers who use excessive force. This Note's findings raise the possibility that, on the contrary, indictments and convictions of police officers may become harder to obtain in some cases. Even with video evidence, people tend to bring their prior attitudes toward the police to bear on their judgments, and people who strongly identify with police appear especially likely to become resolute in their stances when they feel they have video proof backing them up. It's possible, then, that the Mike Brown Law could actually make it harder to get a majority of grand jurors to vote to indict police officers like Darren Wilson...

See Appendix 1 for a longer discussion of BWCs and the impacts of dispositional biases.

#### 2. Misreporting of research concerning BWCs and criminalization of civilians.

The Stop LAPD Spying Coalition notes:

Implementation of BWCs may lead to an increase in criminalization of misdemeanors (lower level offenses), since BWC surveillance increases evidence available to prosecute such cases. BWCs have been implemented under the rationale that they would provide police accountability, but it appears that BWC footage is predominantly (almost exclusively) being used to prosecute civilians, not police. Madison already has one of the highest racial disparities in rates of arrest and charging, for Black versus white residents, among large U.S. cities, and there's good reason for concern that implementation of BWCs might exacerbate this.

The BWC Committee report fails to discuss much relevant research on this topic and misinterprets other research. The BWC Committee report incorrectly claims that a 2018 study Groff et al (concerning Los Angeles Police Department BWC video) found that if BWC video was viewed by prosecutors before making charging decision, the presence of BWC video would not cause an increase in charging rates. Thus, the BWC Committee report argues that if prosecutors were required to always watch the BWC before charging, the adverse effect of BWC on criminalization would be readily eliminated.

This is inconsistent with the actual statistical findings of the Groff et al (2018) study. For example, the study finds:

In sum, when BWC evidence is associated with a case, the likelihood that the case is filed increases. However, there is no discernable difference in case filing between videos that are not viewed and those that are viewed before the filing decision date.

Basically, the statistical analysis showed that viewing the video does not cause a statistically significant decrease in charging rate, and to the extent that there might be some decrease, its magnitude is insufficient to offset the increase in charging caused by having BWC video available.

The primary author of the BWC Committee report did inquire with Elizabeth Groff about interpretation of the study, but failed to actually ask Groff about his central thesis (i.e., the claim that “the researchers also found that, while prosecution rates went up when BWC footage existed, that BWC footage had that effect only when prosecutors failed to review the footage prior to charging”). And he simply appears to have ignored results in the Groff et al paper that directly contradict his thesis and ignored cautionary language in Groff’s reply: “We cannot say for certain what the findings would show if more attorneys watched the video”. I will add that, under the norms of science, appeal to authority (e.g., the manner of Findley’s attempt to invoke Groff’s response) is recognized as a logical fallacy. The ultimate arbiter of the validity of scientific conclusions is the underlying data, logic, and evidence.

I’ll also note that the Groff et al (2018) paper is not a peer-reviewed study, and there are some deficiencies in the paper, but the results it reports definitely should be considered.

For more details on this overall issue, please see Appendix 2. Importantly, I will note here that I submitted this analysis, along with the Groff et al (2018) study and the BWC Committee report, to

statistician/mathematician Professor Brooke Orosz, Ph.D. (Division Chair at Essex County College, Newark, NJ) to perform an independent review. Dr. Orosz fully corroborated my conclusions

corroborated my conclusions. Claims made in the BWC Committee report (i.e., substantive claims, upon which its recommendations are based) are clearly incorrect, misinterpreting scientific research findings.

3. Failure to consider alternatives.



For example...

The BWC Committee report notes that much of the evidentiary value of BWCs is because of the audio the BWCs capture, and particularly dialogue.

I sought to add to the report that it is important to note that MPD officers on patrol already wear microphones, and are required to audio record the incidents in which they're involved. I noted:

Many of the aforementioned argued benefits of BWCs concern verbal interactions (e.g., police interrogations) and other auditory evidence. Insofar as the evidence that matters is auditory (e.g., what police said, what suspects said, what witnesses said, someone's yell, etc.), it can be captured perfectly well by microphones, without introducing the degree of privacy infringement, perceptual bias, and cost that accompanies BWC recording.

The decision was made not to include the information in that last sentence in the report. Instead, the report states:

However, under current policies, audio recording is not required nearly [sic] extensively as the use of BWCs under this committee's Model Policy.

So the argument in the report apparently is, because the current policies for microphone use don't require audio recording under circumstances as extensive as the draft BWC policy would, the city should implement BWCs. That's a ridiculous argument – failing to consider alternatives such as modifying the policy on microphone use to record under more circumstances. You don't need to buy expensive new hardware (BWCs) to solve the problem of an inadequate microphone use policy.

#### 4. Wishful thinking.

There are many known harms and costs associated with BWCs. The committee recommended measures intended to prevent or ameliorate these. But those measures are mostly based on fantasies or speculation about what might work - not empirical data and experience. I've spent decades working on creating policies in various contexts, and watching how those play out when implemented. In my experience, untested measures that people come up with, that they think should work in theory, rarely work as expected. Moreover, when the report says that particular specified measures should ameliorate harmful effects, the thinking is often sloppy or unrealistic.

For example, one known risk is that ICE may begin issuing administrative subpoenas, to obtain BWC video from local law enforcement for immigration enforcement. Such ICE subpoenas have been upheld in federal court. This becomes especially likely as facial recognition software continues to rapidly improve. ICE is already making extensive use of facial recognition software and has contracted with facial recognition companies such as Clearview AI. The GOP is now a xenophobic party, with immigration enforcement as one of its priorities. And in many states, the GOP is busy restricting voting rights, while federal passage of a voting rights bill will probably not occur given GOP filibuster in the Senate. It appears that Trump plans to run in 2024. Other likely GOP Presidential candidates, like Ron DeSantis, are Trump-like. In 2020, Trump lost only narrowly in the Electoral College, which is strongly structurally biased in favor of GOP. The odds that the U.S. will again have a virulently anti-immigrant GOP President sometime soon are not low. Political analysts expect that most likely, Democrats will lose the U.S. House

and Senate in two years, and we have a very conservative U.S. Supreme Court, inclined to uphold anti-immigrant measures. Given these circumstances, there's a substantial chance that, at some point in the relatively near future, ICE will begin issuing administrative subpoenas for BWC footage, for use with facial recognition software.

The BWC Committee report says that, if this starts happening, the Council should be notified and decide on whether to continue BWC use. But once MPD has invested heavily in BWCs and there are contracts in place with BWC vendors, and BWCs are integrated into all MPD operations (with processes built up that depend on them), do you really think Council will stop BWC use? Really? That's wishful thinking.

As an ancillary point, I'll note that the BWC Committee heard no presentations from Latinx groups or groups representing undocumented residents. Though some groups were invited, there wasn't adequate follow-up to ensure that we'd actually hear from them.

Here's another example of wishful thinking....

Research indicates that BWCs may lead to more assaults by civilians against police officers. It's not definitive that BWC lead to an increase in assaults, but there's substantial evidence that they do. The evidence of this appears strongest (assault rates by civilians appear highest) where officers are not given discretion on BWC use, but must record all interactions with civilians. It's thought that this may be occurring because "self-awareness [of being recorded] can lead to excessive self-inspection that strips power-holders of their ability to function under extreme situations." In other words, because officers are aware they're being recorded, they may handle situations suboptimally, leading to more assaults.

The BWC Committee report says of this apparent problem "the Committee hopes that the full package of policies and reforms in Madison will ameliorate any such effect." That statement is not well thought through at all. Indeed, the opposite would be expected. The committee's draft policies seek to minimize officer discretion on BWC use. And there are many good reasons to minimize such discretion (e.g., to obtain recording that accurately represent events). So the "full package of policies and reforms" that are recommended would be expected to maximize assaults, not "ameliorate any such effect"! Again, what the BWC Committee report states is pure wishful thinking, and not even logical.

A core issue with attempts to ameliorate the problems associated with BWCs is that officer, like all humans, are creative in subverting top-down policies that attempt to control them. That's been already shown with BWCs in other jurisdictions. The article "The ongoing problem of conveniently malfunctioning police cameras" (by Washington Post reporter Radley Balko) provides a typical example, discussing a case in which, miraculously, all five BWCs at the scene of a fatal shooting "malfunctioned". As Cynthia Lum et al, from the Center for Evidence-Based Crime Policy at George Mason University, noted in a 2019 review of the findings of BWC research:

The inability of BWCs to impact accountability structures may already be seen in findings that cameras are primarily used by the police (and prosecutors) to increase the accountability of citizens, not officers. The unintended consequences frequently seen from technology are often the result of technology being filtered through the existing values, systems, and cultures of the organization, not hoped-for ones.

I thought long and hard about mechanisms that could be created to sufficiently ameliorate the negative effects of BWCs, such that BWCs could be implemented in a manner where benefits outweigh harms/costs. I concluded that, realistically, it's not possible. The BWC Committee report is relying on hypothetical solutions that have little or no evidence

base of working (or where existing evidence suggests that the proposed solutions are likely not to adequately work).

#### 5. Deficient or misleading information on financial cost.

In the report, there was a failure to adequately consider or include most of the financial information the committee had in its hands, particularly data showing high personnel-related costs. And there was a complete failure to estimate the cost of the randomized controlled trial, recommended in the report as a pilot project. Moreover key information that was included appears inaccurate – for example, as I show in my prior letter, a cost estimate from MPD, for full BWC implementation, that was represented as including all the costs of personnel training and data storage, is clearly too low to actually have included them. I pointed out to the committee that this estimate was too low to have actually included these, but my comments were dismissed and there was no further inquiry into the matter.

A closing note:

A social scientist, with some awareness of the issues associated with BWCs, wrote me:

Given your work – and true deep understanding – the committee and the council have been ‘strongly cautioned.’ They will likely, I predict, proceed incautiously. Everyone will congratulate themselves on this progressive development until cams collide with reality and they become disillusioned.

Leading me to a second aphorism: “Judgment comes from experience. Experience comes from poor judgment.” Surely the city will experience this. Again.

Your case – and silencing by the committee -reminds me of the situation of Antonio Gramsci – Italian Marxist philosopher – of whom Mussolini said something to the effect of “For 20 years we must stop this brain from functioning.” His Prison Notebooks were composed, obviously, while he was in prison.

Hopefully he's wrong on what the city will do, in terms of proceeding with BWCs. We'll see.

Sincerely,

Dr. Gregory Gelembiuk

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