

Recommendation xx: At the conclusion of this committee's work, the Common Council should appoint a new committee made up of members of this committee willing to serve and the original body camera committee willing to serve along with a representative from MPD to undertake a study looking into the issues in OIR recommendations 135, 136, 137, 138, and 139.

Discussion: Several of OIR's recommendations concerned body-worn cameras. Whether body-worn cameras should be implemented, and conditions that should govern their use if they are implemented, is a complex and controversial topic. The Ad Hoc Committee believes that, at this juncture, questions associated with body camera implementation require further in-depth, holistic examination, and that this mission should be given to a new committee, composed of those members of the MPD Policy and Procedure Review Ad Hoc Committee and the Community Policing and Body Camera Ad Hoc Committee who are willing to serve, along with a representative from MPD.

A committee of community members (rather than MPD) should guide this process given the sensitive and intrinsically political nature of many of the issues involved (including, for example, consequences for undocumented immigrants, effects on privacy rights, etc.), and in keeping with the principle that in a free and democratic society, critical aspects of the policing function should be controlled directly by the people themselves as much as possible. Members of the two specified committees are well-suited to accomplish this task, given the background they have already acquired in this and related policing issues, and given that these committees were specifically constructed to represent diverse communities in Madison, particularly those most impacted by policing. MPD should also have a seat at the table — a representative from MPD should attend the meetings to provide input, as with both prior ad hoc committees, though as a staff person they would not necessarily be a voting member of the committee.

The Ad Hoc Committee believes that this topic requires additional review and research in substantial part because of recent changes in key conditions and new findings from body camera trials (that have emerged since the original body camera committee concluded its work in 2015). One new consideration, in terms of political context, is that there is now increased concern about deportation actions by Immigration and Customs Enforcement (ICE). Facial recognition technology has advanced rapidly and is increasingly being used by ICE for data mining, and police videos are presumed to be public records, which would potentially allow ICE to access and mine them. Implementation of body cameras in Madison might result in undocumented residents being less likely to call for MPD assistance when it's needed and less willing to interact with officers.

In addition, research since 2015 has greatly altered our understanding of the influence of body cameras. A well-publicized, small, randomized controlled trial in Rialto, California, in 2014, found a large reduction in complaints against officers and use-of-force by officers wearing body cameras,¹ and the reduction in use-of-force in Rialto appears to have been sustained.² A larger randomized, controlled trial at the Las Vegas Metropolitan Police Department, published in 2017, is an example of a subsequent study that

¹ Ariel, B., Farrar, W.A., & Sutherland, A. (2015) The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial. *Journal of Quantitative Criminology* 31(3) 509-535.

² Sutherland, A., Ariel, B., Farrar, W., & De Anda, R. (2017). Post-experimental follow-ups—Fade-out versus persistence effects: Rialto police body-worn camera experiment four years on. *Journal of Criminal Justice*, 53, 110–116.

likewise showed a reduction, albeit smaller, in complaints against officers and use-of-force.³ However, many additional trials and meta-analyses have been conducted since 2015, and it is now clear that police body cameras are not having the effects that many expected. In March 2019, researchers from the Center for Evidence-Based Crime Policy at George Mason University published what is now the largest and most comprehensive review of body camera use, covering 70 empirical studies on body cameras' effects, ranging from officer and citizen behavior to influences on law enforcement agencies as a whole.⁴ One of the study's main findings is that body cameras "have not had statistically significant or consistent effects on most measures of officer and citizen behavior or citizens' views of police." Moreover, it appears that the consequences of body camera implementation vary widely across municipalities. Differences in outcomes may be mediated by differences in departmental body camera policies and their enforcement.

Though some individual trials, such as those in Rialto and Las Vegas, found a reduction in police use of force, most trials have shown no significant effect on use of force, and the direction of effects has not been consistent across studies. The largest randomized controlled body camera trial in a single city to date, in Washington, D.C., found no significant change in use of force,⁵ and a recent large randomized controlled trial in Milwaukee similarly showed no reduction in use of force.⁶ The largest multicity randomized controlled trial to date, performed in 10 cities, likewise found no overall effect on police use of force.⁷ In some cities body cameras appeared to reduce use of force, but in others to substantially increase use of force. Greater de facto officer discretion about when to use a body camera (such that an officer could frame the nature of the encounter by selecting what was captured on video) was associated with increased use of force,⁸ pointing to the crucial mediating effect of policy and how strictly policy was enforced. Moreover, this same multicity study found a significantly increased rate of assault against officers wearing body cameras (potentially due to this tool exacerbating already volatile situations).

In addition, randomized controlled trials found that body cameras reduced the rate of citizen complaints in most, but not all, police departments (likely, in large part, due to a reduction in the number of frivolous complaints or to officers informally negotiating potential complaints by reviewing video footage of the encounter with prospective complainants, discouraging them from filing a complaint).⁹

³ Braga, A., Coldren, J.R., Sousa, W., Rodriguez, D., & Alper, O. (2017). *The Benefits of Body-Worn Cameras: New Findings from a Randomized, Controlled Trial at the Las Vegas Metropolitan Police Department*, Final report to the National Institute of Justice, 2013-IJ-CX-0016, retrieved from https://www.cna.org/cna_files/pdf/IRM-2017-U-016112-Final.pdf [<https://perma.cc/7R5S-D3XC>].

⁴ Lum, C., Stoltz, M., Koper, C.S., & Scherer, J.A. (2019) Research on body-worn cameras: What we know, what we need to know. *Criminology & Public Policy*. 18(1), 93-118.

⁵ Yokum, D., Ravishankar, A., & Coppock, A. (2019). A randomized control trial evaluating the effects of police body-worn cameras. *Proceedings of the National Academy of Sciences U.S.A.* 116(21), 10329-10332.

⁶ Peterson, B.E., Yu, L., La Vigne, N., & Lawrence, D.S. (2018) *The Milwaukee Police Department's body-worn camera program: Evaluation findings and key takeaways*. Urban Institute. Retrieved from [urban.org](https://www.urban.org).

⁷ Ariel, B., Sutherland, A., Henstock, D., Young, J., Drover, P., Sykes, J., Megicks, S., & Henderson, R. (2016). Wearing body cameras increases assaults against officers and does not reduce police use of force: Results from a global multi-site experiment. *European Journal of Criminology*, 13(6), 744–755.

⁸ Ariel, B., Sutherland, A., Henstock, D., Young, J., Drover, P., Sykes, J., Megicks, S., & Henderson, R. (2016). Report: Increases in police use of force in the presence of body worn cameras are driven by officer discretion: A protocol based subgroup analysis of ten randomized experiments. *Journal of Experimental Criminology*. 12(3), 453–463.

⁹ Lum et al. *supra* note 3

Recent research also shows that viewers are more likely to absolve officers in body camera video than in dash camera video of the same incident because of distortions in perspective (the body camera wearer is less visually salient, and the chest-level placement of body cameras makes the focal subject look taller/larger and thus potentially more threatening)¹⁰.

One of the main goals of body camera implementation has been to increase the public's trust in police. The research indicates that has not happened. Moreover, the comprehensive review from the Center for Evidence-Based Crime Policy notes, "The inability of BWCs [body worn cameras] 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.... It is not clear that BWCs improve [citizens'] views of police or their behaviors toward police.... BWCs also might exacerbate an already challenged relationship between citizens and the police, especially if citizens expect cameras to be used to increase police accountability and transparency, but officers primarily use them to increase the accountability of citizens."

However, we know anecdotally that video footage has changed some legal outcomes in ways that increase police accountability. As Professor Susan Bandes has observed, "bodycam footage of police officers planting evidence led to the dismissal of dozens of criminal cases in West Baltimore. Prosecutors have on occasion brought charges because of discrepancies between police accounts and video; charges that would not have been brought absent the release of the video footage."¹¹

Given the uncertainties raised by the recent research about the effectiveness of bodycams, and the importance of implementing any body-worn-camera system with careful attention to the factors associated with greater success, the Committee believes that, if Madison were to proceed with body-worn camera implementation, a process and policy infrastructure would be needed. As one Committee member noted, "We don't have a process. There's no legislation about body cameras. There's no process about open records.... So before we jump into the lake or jump into the empty pool, we need to put in water, right? So we need to have those processes in place and take things one at a time. I'd hate to just [say] 'here's your camera.' And then what?" This concurs with expert opinion that it is critical that policies governing body camera usage be carefully formulated and enacted first, prior to camera rollout.

The Ad Hoc Committee thus recommends that a new committee, composed as described, conduct further review of this general topic and the following OIR recommendations:

OIR 135: Before a body-worn camera pilot project is implemented, MPD should seek the input of stakeholders—including City leaders, prosecutors and defense attorneys, civil rights litigators, privacy advocates, the community at large, and rank-and-file officers—to identify and prioritize, to the extent possible, the intended benefits and potential drawbacks of any body-worn camera adoption.

¹⁰ Turner, B.L., Caruso, E.M., Dilch, M.A., & Roese, N.J. (2019) Body camera footage leads to lower judgments of intent than dash camera footage. *Proceedings of the National Academy of Sciences U.S.A.* 116(4), 1201-1206.

¹¹ Bandes, Susan A. (2018). Video Popular Culture, and Police Excessive Force: The Elusive Narrative of Over-Policing. *University of Chicago Legal Forum* (2018), 1-23.

OIR 136: Before a body-worn camera pilot project is implemented, MPD should work with stakeholders to develop policies for that implementation consistent with the principles set out in this Report, and with intended benefits identified and prioritized in a manner consistent with the prior Recommendation.

OIR 137: If the pending Wisconsin legislation regarding body-worn cameras is enacted in its current form, Madison should delay implementation of any pilot program until the implications of the legislation on release of body camera footage can be assessed.

OIR 138: Assuming a reasonable consensus can be reached on policy, Madison stakeholders should remain open to funding a body-worn camera pilot project.

OIR 139: If MPD adopts body-worn cameras, it should commit to periodic evaluations (e.g., a one-year, three-year, and five-year review) to assess the qualitative and quantitative impact of the technology on the agency and stakeholders. Such periodic reviews should seek to identify whether the agency should continue its program and, if so, whether policy revisions are necessary to achieve or maximize the identified benefits.