From: Keith Findley
To: Kapusta-Pofahl, Karen
Subject: Fwd: [External] Body-Worm Cameras review
Date: Monday, January 25, 2021 6:29:32 PM

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The Groff email exchange is below.

Keith A. Findley
Professor of Law
University of Wisconsin Law School
975 Bascom Mall
Madison, WI 53705
O: 608-262-4763
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Begin forwarded message:

From: Elizabeth Groff <elizabeth.groff@temple.edu>
Subject: RE: [External] Body-Worm Cameras review
Date: December 28, 2020 at 8:57:31 AM CST
To: Keith Findley <keith.findley@wisc.edu>

Dear Professor Findley,

My sincere apologies. Your email disappeared in the blizzard of communications that was the end of the 2020 fall semester. I am just now digging out.

Your text does accurately assess the study. I appreciate that you emphasize the cross-sectional nature of the study and the finding of very low rates of watching video prior to filing or rejecting. We cannot say for certain what the findings would show if more attorneys watched the video but they do suggest that fewer cases are charged when video evidence is viewed prior to the charging decision. Additionally, our study was conducted in the City Attorney's office. We did not include DA practices.

Please feel free to reach out if I can answer any questions.

Kind regards,
Liz

Elizabeth Groff *(pronouns: she/her/hers)*| Professor and Graduate Chair| Temple University | Department of Criminal Justice | 531 Gladfelter Hall, 1115 Polett Walk, Philadelphia, PA 19122 | 703-795-2394 (mobile) | groff@temple.edu |@liz_groff

Chair | Division of Communities and Place |American Society of Criminology
Women and GIS, Volume 2: Stars of Spatial Science

From: Keith Findley <keith.findley@wisc.edu>
Sent: Monday, December 21, 2020 11:04 AM
To: Elizabeth Groff <elizabeth.groff@temple.edu>
Subject: [External] Body-Worm Cameras review

Dear Dr. Groff,

I am a professor of law at the University of Wisconsin Law School, and currently serve as co-chair of the City of Madison, Wisconsin, Police Body-Worn Camera Feasibility Review Committee. We have been tasked with exploring whether the Madison Police Department should adopt BWCs, and if so, what policies should guide their implementation. We have found your published work on this topics immensely helpful. One concern that our Committee has encountered is the possibility that BWCs might increase the criminalization of members of our more marginalized communities, by increasing the rate at which police and prosecutors charge people with low-level crimes in BWC cases. Your study of the effects of BWCs in Los Angeles seems to suggest this, at least to the extent that it shows higher charging rates in cases with BWC footage than in cases without it. But I need a little hep to make sure I am interpreting your results correctly. My read is that this is not a longitudinal study, but a comparative study looking at charging rates in BWC cases and non-BWC cases within the same time period. Hence, I have written the following for inclusion in our committee's final report, but I wanted to run it by you to make sure it accurately assesses your study:

Several factors caution against assuming that the research means charging rates will necessarily rise if Madison implements BWCs. First, while the data clearly show that cases with BWC footage are charged at a higher rate than cases without BWC footage, that does not necessarily mean that BWC led to an *increase* in charging or criminalization. What it shows rather is that, in the same time period, BWC-footage cases are charged more frequently than non-BWC-footage cases. It could be that BWCs have actually led to a decrease in charging in cases that lack video footage, rather than any increase in charging or criminalization overall. The research does not tell us which effect is being observed.

The Groff finding that charging rates *declined* when prosecutors actually viewed the footage, along with an on-the-ground explanation of practices in Los Angeles by Mike Gennaco, supports the possibility that BWCs might reduce charging in some cases. In the research, charging in cases that had BWC footage was in the aggregate higher than in cases where there was no BWC footage, despite the fact that prosecutors had a lower charging rate when they viewed BWC footage, because prosecutors rarely viewed the footage prior to charging. Groff explained that, in Los

Angeles, “the fundamental issue is that staffing levels [in the prosecutor’s office] are too low to keep up with the current number of cases that need to be evaluated for filing. As one attorney remarked ‘each day is triage’ ….” Moreover, under the system employed in Los Angeles, prosecutors did not have automatic access to BWC footage, but instead had to request access. As Gross concluded, “This decreases the likelihood a DCA [prosecutor] will take the time to consider video evidence.” The result was that in the vast majority of cases, prosecutors made charging decisions without ever viewing the BWC footage—BWC video was viewed by the filing attorney 1.6% of the time and not viewed in 98.4% of the cases that had BWC footage.

Mike Gennaco of the OIR Group, who resides and works in Los Angeles, provided a first-hand explanation of what was happening in Los Angeles. He said that the District Attorney in Los Angeles County has declared that if there is no body camera footage, the DAs will not file (again, supporting the possibility that the existence of BWC footage in some cases might lead to a reduction of charging in others). Gennaco also said that the anecdotal information available in Los Angeles suggests, by contrast, that if there is BWC footage to support the arrest, the DA’s office has an inclination to file the charges, even without viewing the footage first (supporting the finding that BWCs produce a higher charging rate). Indeed, consistent with Groff’s findings, Gennaco told the Committee that, because of a lack of resources, charging decisions are almost always made without viewing the BWC footage first. If the footage is eventually viewed, and it doesn’t match up with the police report in the case, the case will then be dismissed. But in the meantime, negative consequences from the initial charging decision accrue—the defendant will have been arrested, will typically remain in jail unable to make bail, will lose work, and will face pressures to plead out to the case just to get out of jail.

All of this suggests that an essential component of a BWC system is that all measures reasonably possible must be taken to ensure that prosecutors have and review BWC footage prior to making charging decisions.