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Body-Worn Cameras (BWC): The Sword and Shield for Defense Attorneys

By

Joseph Santoro

A Capstone Project Submitted in Partial Fulfillment of the Requirements for the Degree of
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Student: **Joseph Santoro**

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Graduate Capstone Advisor: **Dr. John McCluskey**

Table of Contents

Chapter 1: Body-Worn Cameras: The Flow of Footage and Theory Behind the Technology	4
Introduction	6
Research Question.....	6
Background	7
The Flow of BWC through the Criminal Justice System.....	8
Theories of Body-Worn Cameras.....	10
Conclusion.....	17
Chapter 2: The Role Of A Defense Attorney	18
Introduction	20
History of Defense.....	20
Defense Role in Traditional and Specialty Courts	22
A Part of the Court System.....	25
Conclusion.....	27
Chapter 3: Interviewing the Defense Attorney on Body-Worn Cameras	29
Introduction	31
Objective	32
Perspective Of Other Actors In The Adversarial Process	33
Research Questions	36
Methodology	37
Assumptions and Limitations	38
Conclusion.....	39
Chapter 4: An Analysis of Qualitative Data On Defense Attorney Perspectives of Body-Worn Cameras	41
Introduction	43
Literature Review	43
Analysis of Literature.....	44
Qualitative Interview Methods and Data	45
Internal Validity	46
Data Analysis.....	46
Limitations	53
Discussion	54
Conclusion and Recommendations for Future Research	55
References.....	57
Appendix A: RIT IRB Request for Review of Human Subjects Research.....	64
Appendix B: Research Participant Consent & Release.....	68
Appendix C: Interview Questions.....	69

Chapter 1

Body-Worn Cameras:

The Flow of Footage and Theory Behind the Technology

Abstract

The use of body-worn camera (BWC) technology in the criminal justice system has brought with it new ways of handling cases and effecting interactions between police officers and citizens.

BWC use in the criminal justice system begins when the cameras are turned on and depending on circumstances, the captured footage may become valuable evidence to then be entered into court for trials. Amongst the studies of BWC, two criminological theories have stood out the most.

Deterrence theory and self-awareness, both provide explanation towards what kind of power and influence BWC has over officers, citizens, and court actors. The first is how individuals, both officers and citizens, decide against certain actions due to the high likelihood of being caught due to the presence of BWC. The second, with how self-aware individuals become when under the scope of observation, to then engage in behavior that they see as the standard for society.

Introduction

Body-worn cameras (BWC) are still a relatively new concept in criminal justice, considering how long police have been a part of the criminal justice system. Recently, body-worn cameras have been receiving more attention from researchers and policy makers alike. With this rising interest, it is imperative that the effects of this technology on the criminal justice system be put under study and further understood. Body cameras are a current evolution of a specific type of technology that has been deployed for decades now, that of electronic surveillance systems. For this chapter, there will be a discussion and overview of BWC in the criminal justice system. Specifically, it will go into some of the history on the emergence of this technology and how it flows through departments and courts in the United States. Starting from police-citizen interactions out in the streets, to the application of body camera footage as evidentiary tools in courts.

Along with an overview of camera technology, several theoretical perspectives will be discussed and analyzed regarding applications to BWC technology as it is used in the criminal justice system. Two theoretical perspectives, deterrence theory and self-awareness, appear to be most closely related to the implementation of BWCs in police departments. The purpose of this chapter is to give an introduction to body-worn cameras as a policing technology and why it is important to study the subject amongst other criminological projects. This chapter will attempt to use theory to describe how BWCs play a role in criminal justice and how that role can be understood.

Research Question

RQ1. What criminological theories are present amongst body-worn cameras in the

criminal justice system?

H₀. There are no criminological theories that can be applied to body-worn cameras.

H₁. There are criminological theories that can be applied to body-worn cameras.

Background

Around 2002, the United States started to install closed circuit television (CCTV) cameras across the country. Law enforcement agencies picked up the trend in utilizing this technology for police work and investigations, and from those departments, about 87% of jurisdictions covering a population of more than 250,000 were covered (Piza, 2021; Reaves, 2015). The starting push for body cameras in policing has a multitude of factors that helped it take off. For one, a utilization of an evidence based approach to procedural justice where departments were looking for more solid foundations of evidence as a standard creates a greater appeal to utilize such new technologies. Beginning with CCTV footage and then transitioning to mobile cameras that can be attached to officers in the field, departments have an opportunity and have an increasing interest in using BWC's (Piza, 2021). Besides this new desire to acquire a different approach to evidence based surveillance, the desire and opportunity to build legitimacy and trust with the public also served as momentum for putting body cameras in police departments (President's Task Force, 2015, p. 31; Sacca, 2017). The recording technology puts into the minds of people that there will be more transparency within departments.

Another major piece of support for the deployment of BWC is an increasing desire for transparency of police actions and misbehavior. Publications of guidelines towards preventing police brutality have been developing in response to the problems that arise with such misconduct. The capability for abuse by police to be broadcasted throughout the nation by

recording technology, promotes citizens becoming more prone to fear when interacting with law enforcement (Freund, 2015). Body-worn cameras appeared as not only a tool for officers, but also a potential safety mechanism for citizens. The effect of increased accountability for officers may generate in the minds of citizens that officer conduct will become more tempered and controlled, ensuring that their liberties are not violated (Mommel, 2017).

The Flow of BWC through the Criminal Justice System

Body camera footage makes its initial appearance in the criminal justice system once an officer turns on their equipment and begins engaging with their community whether it be with other individuals or for investigations. The camera footage covers what the officer is facing, generally at a chest-high level. When body-worn camera footage is recorded, it must be uploaded by the officer and then processed by police departments and stored in whatever data storage system they are using. This portion may vary from department to department as some use their own local system while others use third party storage. It starts with the officer pushing the button to record, and ends once the footage is either used in court or deleted after being held in storage for a certain period of time (Uchida et al., 2021).

One of the troubles that have been associated with BWC being used in courts is generating authenticity and credibility. In the middle of the process for body camera footage to become evidence in court, the authenticity of the footage and relevance to the case must be verified (Myers, 2014). The video footage must accurately represent the subject being presented and in a fair and concise manner. There are barriers that may arise through this authentication process. What may seem like small insignificant details should also be watched for. For instance, in a car accident there may have been snow during the time of the accident but when photo or video footage finally captures the scene after the fact, the snow may have melted (Myers, 2014).

In such a case, an explanation by a witness may possibly make the visual representation not admissible or vice versa. While the admissibility of video evidence is handled by authentication, the weight of the evidence can be observed through video credibility. There is a sense that videos and photos do not lie like humans do, yet unfortunately with certain variables such as lighting, camera positioning, and today's technology even a photo or video may skew reality. The editing of video may raise evidentiary concerns when applications like Photoshop have the capability to manipulate images and possibly distort what is being shown by video (Myers, 2014).

The different checks that are required for body-worn camera footage to become acceptable as evidence in court creates a time barrier for footage to be looked at by court actors, which compounds the efforts to access footage with the costs of storing and maintaining footage (Pagliarella, 2016). Alongside these challenges, is the fact that each department may have their own specific policy regarding the regulation of footage (Barbour, 2017). There is not one single policy for each department to follow and with this lack of standardization comes the potential for loopholes to be created and whether intentionally or unintentionally, violations to due process and policy can occur.

There have been multiple Supreme Court cases that resulted in the creation of checks and securities in ensuring due process of the law is followed and any violations are dealt with. One such case is *Brady v. Maryland* (1963) where the Supreme Court held that the failure to disclose evidence in a criminal case that is favorable to the defense and "material either to guilt or to punishment" is in violation of due process (Barbour, 2017, p. 1737). Under this case a defense can determine if due process was violated by showing that evidence has been withheld from the defendant, the withheld evidence was favorable to the defendant, and prejudice came as a result to the evidence not being disclosed (Barbour, 2017, p. 1737). This application of due process

very much follows along with body-worn camera footage, where the defense may not be given footage that could help their case.

Another Supreme Court case that can be linked to the use of body-worn camera evidence is *Arizona v. Youngblood*. While *Brady v. Maryland* (1963) dealt with evidence in the government's possession that had yet to be disclosed, *Arizona v. Youngblood* (1988) came as a result of evidence from a case involving the rape of a child being lost due to mismanagement by police (Barbour, 2017, p. 1738). The original trial resulted in a conviction of the defendant, then went to the Arizona Court of Appeals to be overruled by the lower court's decision. It was decided that the state improperly disposed evidence and violated the due process rights of the defendant. The case was further pushed to the U.S. Supreme Court, who came to a decision that unless a defendant can show "bad faith" on the part of the police, then the failure to preserve useful evidence is not a violation of due process. Ultimately, BWC is a form of evidence in courts and when it is attached to a case, it is expected to be handled like any other evidence in adjudication.

Theories of Body-Worn Cameras

Deterrence Theory

In the study of BWCs and their effects on the criminal justice system, there are multiple theories that can fit the discussion. One criminological theory that can be applied to BWCs is deterrence theory as it may focus on how body-worn cameras act as a tool to deter conflict from occurring between officers and citizens. Whether it stops the citizen from acting up or the officer from engaging in inappropriate behavior or abusing their position of authority. Deterrence theory was developed by classical philosopher Cesare Beccaria in the late 1700s. Yet continues to serve as a theory of why individuals do or do not engage in crime. Originally, deterrence theory

focused on the punishment being what stops individuals from engaging in crime (Mendes, 2001). Unfortunately, there has been criticisms on deterrence theory and its application in the criminal justice system. Mendes took to studying some of these points made by deterrence theory critics and focused on two. The first was that deterrence theory does not provide a credible basis for crime reduction and the second states that the criminal justice system is not set up to handle such a comprehensive and rational theory (Mendes, 2001, p. 2). In his findings, Mendes concluded that there was not much rational coordination within the criminal justice system when using sentencing outcomes as a form of deterrence (Mendes, 2001, p. 172). It may be through such criticisms and study why deterrence theory has had a form of evolution to not only include the severity of punishment, but now also other factors in deterring actions by groups or individuals.

In more recent literature of deterrence theory, there are three elements that represent the core foundation for how it works in the criminal justice system. There is the probability of being arrested, the probability of being convicted, and then the severity of the punishment (Mendes, 2004). While the concept of deterrence theory has all three of these elements involving certainty and severity set as equal in the determination of individuals being deterred from crime, there is great debate over whether one has a greater weight than the others.

There are existing empirical studies of deterrence that draw on the conclusion that the scale of the certainty of punishment, specifically the probability of arrest, carries more weight than a punishment's severity. With this, there has been a division of three perspectives among scholars in deciding the importance of certainty and severity in deterrence (Mendes, 2004). The first perspective, takes it to an extreme that the severity of punishment serves little to no consequence in deterrence. Following that, the second is more of a middle ground in that the severity is relatively less important than certainty. While the third perspective moves to the other

end of the first is stating that all elements of deterrence, severity and certainty, have equal weight in their importance (Mendes, 2004). Through the creation of these three perspectives it is apparent that over time deterrence theory has evolved to not only include the fear of punishment, but also the fear of the probability of being caught.

Research on police-citizen encounters has provided support to the theory that body-worn cameras are indeed helping lower negative outcomes between officers and citizens. In a 2015 publication by researchers Ariel, Farrar, and Sutherland (2015), the effects of body-worn cameras on use-of-force incidents and citizen complaints were tested in Rialto, California. One of the theoretical grounds that was used in theorizing body camera effects in this study was deterrence theory. According to Ariel et-al., (2015) when individuals are able to recognize that their actions are being recorded, they realize an increasing likelihood of any misbehavior being caught and punished. With this knowledge comes a greater likelihood to engage in socially acceptable behavior and conform to the rules put forth against them (Ariel et al., 2015). Their unit of analysis for this study were the patrol shifts instead of individual officers. For a total of 12 months, data was collected from the randomly created experimental and control shifts on incidents involving force being used and the amount of complaints that were received from citizens, pertaining to each shift. (Ariel et al., 2015)

Years following Ariel et-al (2015), a new program evaluation of the Las Vegas Police Department and body-worn cameras was conducted in 2018 and according to its findings, officers equipped with body-worn cameras had a lower number of complaints and use of force reports compared to those without the cameras. In addition, there were also more arrests and citations being issued for the officers who were equipped with the camera technology (Braga et al., 2018). Braga's work is not the only set of data that focuses on this as in other studies, there

are many similar findings where body-worn cameras have produced less incidents involving force by police being used.

More recently, a study by Dieppa (2021) also takes a look at deterrence theory and body-worn cameras, containing similar results as Ariel et. al, while at a different experimental setting. The study was designed to look at data from the Miami-Dade Police Department (MDPD), and with this data, looked to compare differences in the frequency of use of force when body-worn cameras are used or not used within the department (Dieppa, 2021). Body-worn cameras began their implementation in the MDPD back in 2016 (Dieppa, 2021). Dieppa (2021) took data from 2014 to 2015 to gather the number of use of force incidents alongside complaints of use of force for prior body-worn camera data. Using the obtained data from 2017 to 2018, Dieppa (2021) looked at post body-worn camera implementation to serve as a comparison to the pre body camera data. Dieppa applied deterrence theory in his study as body-worn cameras being a form of deterrence for certain types of behaviors by police. Where officers will become more likely to follow the rules of their department and act in a procedurally just manner (Dieppa, 2021, p. 26). This may be attributed to the fact that with body-worn cameras the likelihood of officer misbehavior being caught becomes increasingly high. In other words, the certainty of capture and possibility of punishment are heightened by the presence of the camera.

Deterrence theory contains this idea of people deciding to not commit crimes, not due to some moral sense, but rather the fear of being caught. The theory is not without some faults either though and it makes three assumptions about people. They are (1) that individuals will know what the penalty for a crime is; (2) individuals have good control over their own actions; (3) people think things through and make a choice about their behavior that is based on logic and not passion (Deterrence Theory of Punishment: Definition & Effect on Law Obedience, 2013).

While criminological theories have been under academic review and testing to explain crime and criminal behavior, there is a struggle for one theory to explain every aspect of crime (Tomlinson, 2016). Deterrence theory is no exception as it may fall under this concept of trying to be the method to explain most of criminal behavior in regard to other criminological theories, yet for such a complex subject as criminal justice one theory is not enough. There is an importance then placed on theory integration and being used alongside other criminological theories (Tomlinson, 2016). Where one theory may make-up for any shortcomings or missing information that the other has. There are two main types of theory integration that have been used. First is conceptual integration, which involves overlapping concepts from one theory onto another, or examining similarities in concepts between two, or amongst several, theories. The second is propositional integration, which refers to how two or more theories make similar predictions about crime even if they may begin with different concepts and assumptions, as well as taking explicative features from different theories and developing them into some kind of causal pattern or sequence (Tomlinson, 2016). With the study of BWCs, there seems to be a strong connection for integration with deterrence and self-awareness theory.

Self-Awareness Theory

While deterrence theory has been studied and applied to a lot of body-worn camera research in criminal justice, there is another theory that has been used in conjunction with how body-worn cameras have had an effect on the criminal justice system. Self-awareness theory has been analyzed through studies on body-worn cameras and has been used alongside deterrence theory in some cases of research. In fact, there is discussion that has explained that deterrence theory is reliant on self-awareness (Farrar, 2013). When individuals become more self-aware of their actions being recorded, they react in a way that they view as more socially favorable due to

the likelihood of being caught. It is interesting then how the current literature that focuses directly on self-awareness theory and body-worn cameras is not as readily apparent as that on deterrence theory. Nonetheless, self-awareness is still an important theoretical framework that can be studied alongside body-worn camera research. It follows the train of thought that people modify behaviors if they know they are being observed and more attentive to their own actions (Ariel, et, al., 2018; Peterson, Lawrence, 2021). The original formation of self-awareness theory assumed that an individual's conscious thought process and attention was the base for self-evaluation, and that through this process, the individual will change to match standards. (Silvia & Duval, 2001). This focus of attention on oneself yields self-awareness and forces the observed to adhere more closely to the prevailing standards of society.

Another assumption that self-awareness presents is that the standards an individual will follow for comparison of themselves are easy to formulate. Yet the theory does not specifically state how a standard is selected for the comparison process (Silvia & Duval, 2001). In experimental studies involving self-awareness theory, the standard(s) that are being used for people to do a comparison of the self towards are experimentally induced to avoid the issue. Other remaining assumptions that the theory makes are based on what affects may result from self-awareness. The first is an assumption that the negative affect created by a perceived discrepancy in the self-standard comparison contains a motivation to restore the self to the standard identity. The second assumption details that the effect of a self-standard comparison also contains a monitoring or informational function. Where the feedback that one receives internally and externally is a way of monitoring their progress to conforming to the standard they are trying to achieve. A third assumption for the affect of self-awareness is that the affect that

forms from identified self discrepancies does not contain any implication for future discrepancy reduction. (Silvia, Duval, 2001).

The application of self-awareness theory with body-worn camera research has been researched in a multitude of studies, with a main focus on how officers or suspects become self-aware of themselves when the video recording technology is apparent. For example, in 2013, Farrar published an article on a study that he did with Ariel in Rialto, California on body-worn cameras being used in the police department. While Ariel's publication focused more on deterrence theory, Farrar's put emphasis on self-awareness. Accordingly, in his theoretical discussion, when individuals become aware that their actions and words are being observed and recorded, they experience a public form of self-awareness (Farrar, 2013). While the theoretical focus in Farrar's article is different from the one in Ariel's they both maintained the same context of the study's methodology and results. Farrar's analysis of their work discusses the reported effects that self-awareness had on police officers and according to his findings, the officers who had body-worn cameras were more self-aware and also experienced less complaints by citizens due to their behavior and conduct.

Another study done by Ariel in 2016, with the Denver Police Department partially replicated the Rialto experiment. Part of the reasoning behind this was that Ariel wanted to see if the findings that resulted from the Rialto, California study would be able to translate to a large metropolitan agency (Ariel, 2016). Self-awareness was given a close focus alongside deterrence theory yet again. The methodology of this study was not able to follow along the lines of standard evaluations with randomized controlled trials. Instead there was a close observation on the deployment of body-worn cameras in one district in Denver and used other districts as comparisons and controls. The results from the gathered data on use of force incidents,

complaints by citizens, and arrests tell a story of body-worn cameras resulting in more positive outcomes when compared to the control groups that did not have body cameras. Meanwhile, in the recorded responses by officers who partook in this study, body-worn cameras were viewed as a form of over watch on behavior and that the officers continuously had to be aware of themselves and conform to a standard that has been placed upon them (Ariel, 2016).

Conclusion

While a relatively new technology, body-worn cameras have been in deployment now for some time to the point that multiple scientific studies have been conducted across the nation. However, many unknowns require further research replication and study. In the theoretical makeup of this chapter, deterrence theory and self-awareness theory are detailed as two separate perspectives, even with the similarities and how they both seem to branch off one another. There is a distinction between self-awareness and deterrence theory that needs to be known for one to understand then why they are different. Self-awareness relies more on an internalized standard that one puts on themselves and how by becoming aware of one's actions and how it compares to that standard, future correction will be made to match the standard. Deterrence branches off from self-awareness but insists that it is the likelihood of being caught and punished, along with the severity of punishment, that will determine the future action that an individual will take.

Chapter 2

The Role Of A Defense Attorney

Abstract

The position of defense attorney has a history that is complex with how the position has developed through time and experiences in court. Two competing ideas have emerged for how attorneys go about forming their defense for clients. The first involves taking a zealous approach to defending clients to their utmost ability within the created legal framework, while the second is a libertarian approach of defendants not needing to cooperate with the state. In learning more about the role of a defense attorney, U.S. Supreme Court cases like *Gideon v. Wainwright* or *Florida v. Nixon* provided the baselines that may be used for defense attorneys in court. More than just court decisions though, are what types of courts that defense attorneys are engaging their practice in. Where new knowledge of law in an already extensive database is required by attorneys to provide the best defense possible for clients. Finally, alongside experience, court decisions, and the differences amongst traditional and specialty courts, the power dynamic of court actors has placed defense attorneys in a position that is limited in comparison to other court actors such as prosecutors and judges.

Introduction

This second chapter will focus on defense attorneys and their roles that they play in the court system. It will also seek to answer whether or not the structure of their position and capability may change with body-worn cameras being used. Current and past research on the position of defense attorneys has focused on a multitude of aspects on how their role is perceived and generated through the history of defense law, the creation/development of different courts, and the organization of the court system itself. Body-worn cameras are a new development when compared to the history of the criminal justice system and their widespread application in law enforcement and courts is even more recent.

History of Defense

The professional identity of defense attorneys originated sometime between the 1920s and 1940s, and the first actual public defender office was established in 1914 (Mayeux, 2018). Frederic Vercoe, a prominent lawyer in one of the first public defenders offices created, gave seminars on what constitutes good defense and the appropriate roles and objectives that public defenders should have. In his experience, he found that the best attorneys are not successful due to talent or intuition, but rather possessing a great body of knowledge and skills that can be mastered through training with peers who have experience (Mayeux, 2018). In this, further duties of defense attorneys now involve training and continuing education to provide as adequate a defense as possible, but also after gaining experience, being open to share their wisdom and knowledge with further generations of attorneys.

Within the role of defense attorneys, a theme of two competing methods of defending has emerged. The position of defense attorney is not the same between its startup and how it is in today's time (Mayeux, 2018). The first of the two, is where attorneys may be zealous in their

defending of clients whereas the second involves attorneys taking part in a more libertarian approach. There has been some confusion in this distinction as the zealous defense that attorneys will put forth for defendants is at times distinguished as what is called "Warren Court Libertarianism". In reality this should not be the case, as they are two separate methods (Simon, 2003). The libertarianism approach implies a suspicion to the state and that defendants do not need to cooperate with the criminal justice system. The strategy of this defense would hamper all attempts at prosecution and prey upon the state's limited access to relative information in proving a defendant's guilt. Yet the weakness in this strategy is that it also ignores justice considerations and accurate determinations of guilt or innocence. It offends plausible and widely-held beliefs about the moral priorities of criminal justice, and it also becomes politically vulnerable. Because of this, it is not actually a popular form of defense amongst lawyers (Simon, 2003). The zealous defense only requires lawyers to do the most that they can to help their clients, but within the purview of the given legal framework.

Throughout the history of the criminal justice system, there have been a multitude of cases that have started from state and local courts and have made their way into the U.S. Supreme Court. In some of these cases, the roles of defense attorneys have been more clearly defined or adjusted. One such court case that has majorly impacted defense attorneys and their clients is *Gideon v. Wainwright*, which relates to the 6th amendment of the constitution. Where in all criminal trials a defendant should have their right to counsel protected and if they are unable to afford an attorney, then the court/state will provide one for them. With this, the roles of defense attorneys were reinforced with the duty to ensure all defendants have a defense. While *Gideon v. Wainwright* has positioned itself as a major standard for how defense attorneys are used in the criminal justice system, there are more aspects of a defense attorney's role that have

been put under review and revision within other supreme court cases. For instance, in Florida v. Nixon, there was debate over whether or not a defense counsel may concede their client's guilt at trial when their client neither consents or objects (Supreme Court, 2018, p. 1). In this case, when the defense counsel was discussing strategy, their client was unresponsive the whole time. It was determined by the defense counsel to admit their client's guilt through mental disability as the best way to move forward. It was only after the fact did the client complain about their admission for his guilt. The Florida Supreme Court reversed the decision for the death penalty, determining that the performance of the defense counsel was deficient. Yet the Supreme Court of the United States determined that the counsel was in fact within legal standards and that the client would be required to show the concession by their counsel as unreasonable (Supreme Court, 2018, p. 9). Even with the experience of an attorney, ultimately it is the defendant that has the right to decide on how they wish to stand in court. In this context, defense attorneys are to give their experienced opinions to their clients and put forth efforts to give the best defense based on the stance that their client wishes to make. The decisions that the defense counsel makes then are how they are going to present their defense, but do not extend past this (Supreme Court, 2018, p. 6). Amongst the Supreme Court cases that have been tried throughout the history of the criminal justice system, the identity and purpose of a defense attorney has become more apparent, yet it is not just through these cases where defense attorneys obtain their responsibility.

Defense Role in Traditional and Specialty Courts

Looking at the role of a defense attorney involves taking a look at a multitude of different factors, of which the type of court that they are practicing in may have an effect. The traditional role of defense attorneys, where they zealously advocate for a defendant within the confines of the law, may no longer be sufficient for these different courts and so new approaches must be

taken. In the overarching title of problem-solving courts, the different courts such as drug courts, delinquency courts, family courts, and others, are all composed of the stakeholders that are involved in the makeup of each one (Spinak, 2003). Generally at minimum though, all these courts will have the judge, defense, and prosecution. However, even with their constant presence throughout the courts, their position and methods may need to be altered. For public defenders especially, their role in the execution of these courts may not be viewed as equivalent to the other stakeholders and with this inequivalence, comes more resistance (Spinak, 2003). Spinak details four different reasons for why this view is present amongst defenders in dealing with these courts. First, the judges and prosecutors in the partnership begin with an element of financial control that defenders do not have. With a switch to specialty courts, more funds will be taken away from traditional courts and for defense attorneys there is a split in support or denial. For those who wish for change for their clients, they may not like receiving less funds, but may not openly go against new innovations in courts (Spinak, 2003). Second, defenders are less likely to speak with one voice unlike either the court system or the prosecutors. Third, defenders have to believe that the other professionals creating the new system are willing to think differently about the clients. Finally, defenders worry about the dilution of the problem-solving courts' central commitments as the courts proliferate.

Taking a more detailed look at drug courts, they may change the legal framework of lawyering, however the “zealous advocacy” that public defenders are required to uphold is in itself not changed ethically and in fact, the range for options that defendants have increases (Simon, 2003). According to Keena (2010), the drug court process differs from the conventional one in two major respects. First, the defendants choice of whether to enter the drug court process involves both a longer term and a more uncertain set of contingencies than the choice of whether

to go to trial and it may be difficult for a defense attorney to advise the client in such circumstances. Second, when defendants choose the drug court, their lawyer has a continuing role in the process that does not have any counterpart in the criminal court process (Keena, 2010). Alongside these court process changes, defense attorneys must now educate themselves on treatment strategies and also understand different levels of substance abuse to grasp what pressures that their clients are facing. Yet these different processes are not the only ones that are observed and explained through research, as there is also a change in how the relationship between all attorneys is formed. Rather than a more adversarial connection as in traditional courts, defense and prosecution are in essence suggested to work as a team (Quinn, 2018, p. 46).

Delinquency courts are another example of how the change in target/specificity may also change how defense attorneys regard their position in court and what role they must play as defense. The role of the juvenile defender has evolved to where they must not only have knowledge and the capability of a criminal defense attorney representing adult defendants, but also be aware of the new facets that juvenile court brings. Puritz proposes five different duties that public defenders must realize in their role inside of delinquency courts (Puritz, 2010). First is the duty to represent the client's expressed interests, where at each stage of the case being worked on, the defense attorney must act as the client's voice and give their expressed interests, not necessarily their best interests. The second duty consists of confidentiality and privilege, where juvenile defense counsel has an affirmative obligation to safeguard a client's information or secrets from everyone, including parents or guardians, and must also only act in the client's expressed interest. Meaning that they are not to act based on what could be the client's best interest without client permission. The third duty, that of competence and diligence, gives attorneys responsibility in encompassing the obligations to investigate, to protect the child's due

process rights from arrest through the close of the case, to engage in dispositional advocacy, and to access ancillary services. Fourth is the duty to advise counsel, where attorneys must offer their clients comprehensive advice while also considering their client's familial, educational, social, and developmental background and be in constant awareness of the client's legal situation. The final duty is communication, where at every stage of the case, a juvenile defense attorney keeps the client informed of the case's legal progression in frequent discussions using age-appropriate language, so that the client is a fully informed and proactive participant at all stages of the proceedings. (Puritz, 2010).

A Part of The Court System

Courts in the criminal justice system have been in developing stages where their processes have changed and the influence between court actors has shifted over time. Perhaps one of the more negative connotations that have been created with how courts have developed is how they have in essence become more of a system of plea bargains rather than a system of trials (Patton, 2013, p. 2582). In effect, defense attorneys may now perceive themselves not as those who will look to prove innocence, but rather those who will strive to give their client the "best deal". Going alongside this change in process, is a power shift that has taken place over the course of time, from judges and juries to prosecutors, the other side from defense (Patton, 2013, p. 2588). Prosecutors are now put in favor with their recommendations and resources for cases. While the adversarial process in courts is said to contain equivalence amongst court actors, underlying it all is a certain power dynamic that is not in favor of defense attorneys, and in effect, makes their position and role more mediatory and insubstantial as one would hope. Instead of putting forth a stalwart defense and going against the prosecution, attorneys are

amiable towards the recommendations of prosecutors and try to get their clients the best bad outcome they could get.

The courts have become drowned in bureaucratic priorities and administrative instruments to the point where these priorities can exert more influence than the ideological goals of “due process” (Blumberg, 1967, p. 19). In a more subtle light, not easily seen by the public or media, is the back-door scene of courts where lawyers, both private and legal-aid, must continue on with their profession and deal with the same individuals for future cases. In so doing, they look to present themselves in as favorable a light as possible to judges and their peers for increasing their odds of success in the courtroom (Blumberg, 1967, p. 21; Nardulli, 1986, p. 382). In this way, they are also attempting to put up a groundwork for casting future clients in a more favorable position amongst the court.

Public defenders quite possibly hold the most important role for holding police accountable and ensuring a defendant’s fourth amendment right is upheld. However, the dynamics between court actors have been shown to have an impact in how defense attorneys prepare for their cases and whether or not they will seek to go to court or engage in a plea bargain (Nir & Liu, 2021). In a study done with qualitative interviews with defense attorneys, it is seen that litigating rights violations is deemed futile as it may go against favorable outcomes in court as well as professional relationships (Nir & Liu, 2021). In addition to these findings of defense attorneys being reluctant to engage in full litigation, is how they view their position and role in the court as a system. They maintain that they must seek to zealously protect their clients from overreach of government power, yet they also address that as a part of the court they seek to keep it running as efficiently as possible. Besides the narrative of being a part of the same system and needing to be as cooperative as possible, is the limitation of time with clients that

defenders actually have. This limited time frame is due to a massive influx of caseloads that are placed on them. Many defenders do not have the luxury of only having a few clients to worry about and instead, depending on jurisdiction, must try to work their cases as quickly as possible while doing their best to give a good defense for all their clients (Rapping, 2014). Due to this excess exposure to multiple cases, it can be difficult for attorneys to form a good relationship with all their clients.

A major part in the defense attorney's role in courts also comes from their placement in the order of the adversarial process, where they are the ones that are to be given the last word. As such, it would be their responsibility to prove their clients' innocence and refute what has been said before in court by the prosecution. Unfortunately though, that is made difficult when the prosecutor is given more attention and greater recommendation by other actors such as judges. Once again, as seen through the lens of order placement, the role of the defense shifts from one of proving innocence, to one of acquiring the best outcome or deal based on what was recommended by the prosecutor in court (Englich, Mussweiler & Strack, 2005; Bogdan, 2018). This strategy is not the recommended one that defense attorneys want to use in defending their clients, yet by the way the courts are set up and their position in such a system, they must unintentionally assimilate to the prosecution recommendation.

Conclusion

The history of the position of defense attorney has collected over a century of knowledge and experience. Through the study of this history, it appears that one of the most important aspects to being a successful attorney is the ability to acquire knowledge and skills, rather than being talented at debate. The role of defense attorneys in the criminal justice system has been a position of great importance, with their duties to clients becoming more defined throughout

history with experienced veterans giving out advice along with decisions made from Supreme Court cases. but seemingly little power in many cases when compared to other court actors like prosecutors. Yet to be in the position requires the ability to work to the best efforts for clients being represented and that may include being adaptable to different court settings, such as juvenile courts.

Chapter 3

Interviewing the Defense Attorney on Body-Worn Cameras

Abstract

Body-worn cameras (BWC) were not first utilized by law enforcement in the United States and did not start their widespread use until recently. Research on the subject also experienced a slow start and not until a few years ago did it start to pick up in pace and quantity. When compared to other actors in the criminal justice system such as police and citizens, the perspectives of defense attorneys on BWC have not been under a lot of research. The study done for this capstone was designed to gather qualitative data on the perspectives of defense attorneys practicing in Monroe County, NY, for BWCs and their effectiveness in court. The Zoom online platform was utilized for interviews with defense attorneys and their transcriptions were recorded to generate themes to be used in an analysis.

Introduction

This chapter covers the properties and methodology of the project. It will start by describing what current research on body-worn cameras (BWC) has addressed. Next will come an analysis of studies involving the perspectives of court actors other than defense attorneys, such as police or citizens. Afterwards, the process of how the project was formed and implemented will be described in detail to outline how data is collected and why it was completed the way it was. This chapter will also address what the research questions are that the project will seek to give answers to, along with what hypotheses were identified for testing. Finally, this chapter will end on a discussion of the assumptions and limitations of this study as well as some concluding remarks.

Research on body-worn camera (BWC) technology is expanding at breakneck paces and more evidence-based evaluations have taken place (Gaub & White, 2020). While BWC studies were in development around 2005 in other nations like the United Kingdom, they did not begin in the United States until around 2012 in Rialto, California, and its results were not published until 2015 by researchers Ariel, Farrar, and Sutherland. Yet even with the late start, only a few years later would there be a massive increase in total studies being conducted in the United States (Gaub & White, 2020; White & Malm, 2020).

During the first few years of evaluations, BWC research had a focus on impacts of behavioral outcomes such as complaints against police officers or total use of force incidents, and it is not until recent years that studies have become more mixed (Gaub, White, 2020). Amongst all the present available research, two systematic reviews of BWC research have been implemented (Cubitt, et al., 2017; Lum et al., 2020). Cubitt et al. developed a review of 11 total articles pertaining to BWC implementation in law enforcement, with five identified as

peer-reviewed studies and the other six falling under gray literature. The findings from this review indicated that BWC was shown to reduce use of force incidents, certain crime rates, as well as court costs. Meanwhile the public responses to BWC varied from positive to negative alongside police opinions (Cubitt et al., 2017). The lack of available peer-reviewed studies on BWC was a major limitation for Cubitt et al. and it is not until more scientific research of BWC was conducted that a new systematic review could be conducted with more confidence in its results. In 2020, Lum et al. developed a new systematic review on BWC in law enforcement, with a total of 30 experimental and quasi-experimental studies being used in its analysis. Almost triple the previous systematic review, the new review also provided results that were opposite that of Cubitt et al. BWC effects on use of force incidents, arrests, and proactive activity were not consistent or significant amongst the different studies included in the review (Lum et al., 2020). While these two systematic reviews show an increase in the research on BWCs, an important thing to note is that most of the studies included in these reviews were focused on the behavioral effects of BWCs in law enforcement. While incredibly useful, there is no attention being given to the perspectives of other criminal justice actors such as prosecutors, judges, and defense attorneys that are affected by BWC.

Objective

The objective of the capstone is to collect data on the perspectives by defense attorneys on body-worn cameras being used as evidence in courts. Additionally, we seek to determine what challenges and changes in the case process may be associated with body-worn camera utilization. This research is important not only because it is necessary to gather the perspectives of parties affected by BWC, but also because there is a lack of research that focuses on defense attorney experiences BWCs. In fact, only one study was found that involved the perspectives of defense

attorneys, yet the focus was directed towards BWC impacts on the arresting and prosecution in intimate partner violence cases (Morrow, Katz, Choate, 2016).

Perspectives Of Other Actors In The Adversarial Process

While this capstone is looking to acquire a better understanding of the perspectives of defense attorneys in regard to body-worn camera footage as an evidentiary tool, it is important to understand the perspectives of other actors in the criminal justice system as well. To gauge just how much of an impact BWC have had in courts and throughout the criminal justice system, it would be best practice for the field to get the views of everyone affected by them. One set of perspectives to look at is that of citizens and how they feel about BWC. Fortunately, there has been recent research conducted to test for such perspectives. In Washington DC, researchers conducted 40 interviews with residents, asking about their opinions on body-worn cameras being used by police officers. Overall findings suggest that residents feel that BWC will improve officer behavior, however the trust between police and community will not improve (Wright & Headley, 2020). More specifically, three sub findings were recorded, looking at the approachability of officers, improved police officer behavior and legitimacy, and police-community relations. In other studies on citizen perceptions of BWC in law enforcement, Crow et al. (2017) took a look at two Florida counties. From this, it appeared that citizens perceived BWC to have the benefits of improving police behavior, providing evidentiary value, and increasing police legitimacy (Crow et al., 2017). Other experiments and evaluations from research, give increasing support towards positive perceptions by citizens in regard to BWC (Ariel et al., 2019; Culhane et al., 2016; Demir et al., 2020). These different studies on citizen perceptions contribute to the research on BWC, but they are only one piece of the puzzle for BWCs.

While there may be seemingly a majority of positive perspectives from citizens towards BWC, the perspectives of law enforcement agents shows more of a mixed bag. Studies of perspectives amongst law enforcement officers have shown an acceptance of BWC as a tool and that it indeed brings some positive effects, yet at the same time there have been negative viewpoints expressed alongside the positive (Fallik et al., 2020; Logan, 2020, Pickering, 2020). For instance, in interviews with officers by Fallik et al. (2020), there were cases of officers expressing favor towards BWCs due to its ability to give an accurate accounting of encounters that officers had with the public during their day. Assisting officers when they need to make a report or provide evidence for cases and investigations. Additionally, BWC was seen as a way to increase protection for officers. Where people who interact with police will see the camera and realize they are being recorded, and therefore will act more civilized in fear of being recorded and that the video may be used against them in court (Fallik, 2020). In other cases, false citizen complaints may be posted but based on the BWC footage, an officer may defend their case with evidence against such complaints (Pickering, 2020). Negative viewpoints were recorded as well; the productivity that officers felt they wanted to achieve was now harder to grasp as they were now being “restrained” by BWC as the cameras now were involved in everything they did. Along with this perceived decrease in productivity was an overall consciousness of accountability where officers needed to form an assumption that they are now always recorded and were no longer able to operate with as much discretion in gray matters where they were able to operate with more leeway before BWC (Fallik, 2020).

Just as with citizens, the perspective of law enforcement officers is important to analyze, seeing how they will deal with BWC everyday, but there are still more actors in the system whose perspective needs to be addressed. Other perspectives that should not be left out but may

not be noticed, are those of arrestees. In one research study by Taylor & Lee (2019), involving interviews with over 900 detainees, findings showed a majority of positive reinforcement for police to have BWC equipped but also a smaller group expressing negative opinions on the matter. Among the positive responses, the most common themes were the usability of BWC as evidence and BWC being a tool for accountability and fairness (Taylor & Lee, 2019). For those who responded with negative reviews of police BWC, there were three major concerns that were raised. The first was the manipulation of BWC footage by police, where detainees feel that officers may turn the camera on and off when they feel like it to show a story that will fit their narrative, using the discretionary power that has been given to them. Included in this are detainees detailing situations in which officers provoke them to respond with visual cues of being upset or angry to then be seen on camera (Taylor, Lee, 2019). The second concern posed by the interviewed detainees was the modification of BWC by officers. Where individuals were worried that officers may be able to look over BWC recordings and edit out portions that may be detrimental to their case (Taylor, Lee, 2019). The third major concern in the interviews was the misrepresentation of events by BWC. When viewers are looking at footage by a BWC they may take on a position that is favorable to the individual whose viewpoint is being captured by the camera, which in these cases are the officers. Automatically pitting juries and other court actors against detainees. Other concerns with misrepresentation were that only parts of video would be used as evidence and may be taken out of context when the whole video is not shown (Taylor, Lee, 2019). These perspectives that have been evaluated and organized through current and past research are important in many ways, one of which is forming a comparison to the perspective of defense attorneys and what this capstone seeks to learn.

Research Questions

Besides a clear objective, we also needed a way to guide what direction this study would take along with how it is developed. In this instance, a set of research questions were created at the beginning stages of the capstone project. Besides trying to give attention to areas of research that have not been studied, the research questions will also help direct where the focus for each chapter will be. For instance, in the first chapter of this capstone, deterrence and self-awareness theory in criminal justice were examined and analyzed. Going into the makeup of each theory was not enough though, and as the first research question addresses, both theories needed to be tied into body-worn cameras in the criminal justice system. A total of five research questions were developed along with their hypotheses that were created before any research was conducted.

RQ₁. Have body-worn cameras changed the role of defense attorneys?

H₀. There has been no change to the role of defense attorneys in court due to the implementation of body-worn cameras.

H₁. Body-worn cameras have increased the role that defense attorneys play in court cases.

H₂. Body-worn cameras have decreased the role that defense attorneys play in court cases.

RQ₂. What are the perspectives of [Is there a shared perspective by]defense attorneys on body-worn cameras as evidentiary tools?

H₀. There is no shared perspective by defense attorneys on body-worn cameras as an evidentiary tool in courts.

H₂. Defense attorneys view body-worn cameras as an effective form of evidence to be used in cases.

RQ₃. Have laws such as discovery changed how cases with body-worn camera footage as

evidence is handled by defense attorneys?

H₀. Discovery has not changed how body-worn camera footage is handled by defense attorneys as evidence.

H₃. Discovery has impacted how defense attorneys receive body-worn camera evidence for cases.

RQ₄. What direction would defense attorneys like to see future body-worn camera research take?

Methodology

At the start of the project, we developed a set of research questions to help guide the research. Alongside these questions, is an overall literature review of current research that has been conducted on body-worn cameras, as they relate to the capstone. This literature review served as not only a source of information, but another tool to help shape how each chapter of the capstone will be formed. References were divided based on their content into each chapter to serve as background information on what each capstone chapter is about while also answering some of the research questions. Once the research questions and literature review was completed, the actual interview questions could be formed based on the acquired information from the literature review and the desired information from the research questions. A total of 14 interview questions were developed with the assistance of the advisor to the capstone project.

Preparing for interviews

Before interviews with defense attorneys could be conducted for the capstone, the study needed to pass an IRB review to ensure the rights and welfare of the attorneys who will participate are protected. This required a Form A IRB request to be created and filled out, along with an informed consent form that would inform all participants of the purpose of the capstone

as well as how their confidentiality will be protected (see Appendix for completed forms). Once all documentation for IRB approval was filled, submitted, and then finally passed through by RIT's review board, the scheduling of interviews with defense attorneys could begin. To schedule interviews with attorneys, 15 emails were sent out to those currently in the practice. Originally, one known attorney was emailed about the project and the desire to interview their colleagues. A list of emails for other attorneys was provided and in some cases, the attorneys reached out first. The way that the interviews were set up, was that a scheduled time would be selected for both parties, and a Zoom meeting session would be created. Each interview was a one-on-one session where only one defense attorney was interviewed at a time with the same interviewer each time. One-on-one sessions were decided over group interviews for a few reasons. First is that a single person session would allow each defense attorney that is interviewed a chance to answer every question with their own opinions and experience, giving ten whole perspectives for each question. Whereas in a group interview setting, some attorneys may not give answers as their peers take charge in answering a question. Second is the risk of some attorneys not willing to answer certain questions if it is in front of their peers, whereas in one-on-one sessions they no longer have that fear. Third is a greater chance of ensuring confidentiality and anonymity for each interviewee when doing single sessions, while in a group session, each interviewee's answer will be witnessed by others besides the interviewer.

Assumptions and Limitations

While the data that was obtained and analyzed is valuable, there are some assumptions that are involved in this project. First, there were only a total of 10 defense attorneys that were interviewed, while the Monroe County public defender's office records a total number of 101 attorneys. With only 10% of the total number of attorneys in office, there is this assumption that

the sample will be somewhat representative of the rest of the population. Yet there is no accounting for how many private attorneys practice in Monroe County as well and there is the potential for history bias, where over the past couple of years, defense attorneys may have retired or switched to another location. A second assumption of this capstone is that all interviewed attorneys will be able to answer all interview questions provided. The interview questions were created with the thought that most if not all defense attorneys will have had the experience to adequately address the inquiry. Outside of the assumptions that were made with this capstone, there were also limitations that were faced throughout the process. First, as with the first assumption, only 10 defense attorneys were interviewed, and a major reason for this was the time available for interviews. This is a student capstone project and the timeline for interviews was only around a month and scheduling had to work around the intensive workload of attorneys and college classes. Second, the interviews were conducted on a Zoom platform which requires stable internet connection and speed to ensure clear discussion between interviewer and interviewee. Something that does not always turn out as needed, as there were a few instances where the internet connection to meetings was a little unstable, resulting in some audio being left out.

Conclusion

The purpose of this capstone was to cover an area of BWC research that has not received the attention that is needed, especially in comparison to other areas of study with BWC research. To gain as great an understanding of a subject as possible, it is important to gather information from all available sources, and so gaining the perspective of defense attorneys on BWCs alongside other criminal justice actors like police officers, citizens, and even detainees is a further step in the direction of gaining understanding on BWCs and their effects in the criminal

justice system. Meanwhile, the research questions that were created for this project will hopefully help future researchers in guiding their own research and how to develop questions of their own.

Chapter 4

An Analysis of Qualitative Data On Defense Attorney Perspectives of Body-Worn Cameras

Abstract

In the study done for this capstone, different themes were derived from a sample of ten defense attorneys practicing in Monroe County, NY. These themes are used to answer the created research questions for this capstone project. In discussing the views of defense attorneys on body-worn cameras (BWC) there were themes of the technology being a source of clarity for courts as well as serving as a sword and shield either defending a defense or refuting it. Changes to the roles of defense attorneys through BWC, showed diverging themes where BWCs serve either as a neutral tool of resolution for attorneys or having no effects of change. The last theme identified was that with discovery and BWC, the footage generates more work for defense attorneys, increasing the stresses on time required to review evidence.

Introduction

Technology has changed the way that we live our lives and not just on an individual level, but on a macro level as well. Through businesses, education, quality of living, and systems like criminal justice, innovation and change have been present throughout history. Body-worn camera (BWC) technology has been one of the most recent aspects of such change for the criminal justice system. The accuracy of the visual and audio recording capabilities of BWCs have allowed them to become usable as evidence in the criminal justice system with law enforcement and courts. This chapter starts with a brief literature review highlighting the importance of body-worn cameras in courts. It also summarizes the literature from three previous chapters. Finally, we present findings from qualitative data derived from interviews with defense attorneys in Monroe County, New York. The chapter concluded with a discussion of how these findings relate to and extend the extant literature in this area.

Literature Review

The importance of evidence for criminal adjudication has been fundamental to ensuring individuals are guilty or innocent. Supreme Court cases have created requirements and benchmarks for police departments and other actors in the criminal justice system to follow in terms of handling and using evidence for cases. In *Arizona v. Youngblood* (1988), it was determined that unless the defense can prove bad faith on the police, then the failure to preserve evidence would not be considered a violation of due process. Yet on a very similar note, in *State v. Merriman* (2013), there was a decision where trial courts must consider if evidence that was lost, would have played a significant role in a suspect's defense, and if so, the case may face a dismissal (National Center for State Courts, 2016, p. 9). The introduction of new forms of evidence such as BWCs, has created an expectation of visual and audio recordings within courts

around the country (Segal, Williams, Ott, Ronzone, and Wolfson, 2016). In fact, the importance that is being placed on BWCs has reached levels in some instances where courts have created measures that allow suppression of evidence for unrecorded statements (Segal et al., 2016).

In terms of police-citizen encounters on the streets, there is an increasing desire for recordings to be required in situations such as DUI stops for statements and test results to be admissible. South Carolina has taken a lead in this direction with a statute requiring officers to turn on their recording device as soon as they turn on their car lights and proceed with testing and arrests for DUIs (Uniform Act Regulating Traffic on Highways, 2022). In another example of BWC recordings having a great importance placed on them, there was a recent incident in Rochester, NY, where a Supreme Court Justice dismissed a gun-involved assault case due to there being no BWC footage preceding an arrest of an individual by RPD officers (Forsyth, 2020). The way that evidence is treated and handled, as well as how such treatment may affect cases has been in development through multiple cases that have been taken to the Supreme Court. The resulting decisions from these high profile cases have given more direction towards how courts may react based on the circumstances of evidence.

Analysis of Literature

To have gained a better understanding of the effects that BWCs have on the criminal justice system, and with defense attorneys in particular, the theories and hypotheses explicitly addressing roles of defense attorneys were reviewed. The amount of literature that has been published, along with the current studies involving interviews with defense attorneys, allows for a detailed analysis on the subject. In the discussion of theoretical models of criminology, deterrence and self-awareness were identified as the theories that most apply to BWCs. Through this, we have formulated a conclusion that BWCs serve the criminal justice system by whether or

not individuals and police are fully aware of the capabilities of BWC technology and its presence in the field. With defense attorneys, by examining the history of the position and how it has developed over time, we can explore hypotheses regarding whether and how BWCs have had an effect on their roles in court. Or vice versa, if there has been no changes at all.

Qualitative Interview Methods and Data

The data collected for this study were obtained via interviews with defense attorneys practicing in Monroe County. We gathered a sample of 10 attorneys, with 3 working as private attorneys and 7 working as public defenders in the Monroe County Public Defender's office. A key informant was used to recruit participants for this study. Therefore, the sample is one of convenience.

All interviews were conducted via the Zoom platform with recordings being uploaded into either a cloud or local save drive with all recordings taken verbatim. The total duration of all interviews combined was 234 minutes, or just under four hours of collection time, with an average interview time of 23 minutes. The time required for editing and cleaning up transcriptions for an interview was around double of the interview length. Meaning that the total time spent on transcriptions for this study was an additional 8 hours. Table 1 shows the specific date, duration, and attorney status for each interview. For example, Attorney B was interviewed on 3/12/2022, with an interview duration of twenty-six minutes and three seconds (00:26:03) and identified as a private attorney. For the purposes of maintaining confidentiality, each attorney that was interviewed was assigned a letter to keep recorded responses with the correct participant in the analysis presented below.

Table 1

Attorney	Date	Duration(Hr:Min:Sec)	Public/Private
A	3/10/2022	00:20:21	Private
B	3/18/2022	00:27:38	Public
C	3/18/2022	00:19:38	Public
D	3/18/2022	00:24:16	Public
E	3/23/2022	00:24:41	Private
F	3/23/2022	00:22:27	Public
G	3/23/2022	00:24:30	Public
H	3/25/2022	00:20:59	Public
I	3/28/2022	00:42:55	Public
J	4/1/2022	00:12:05	Private

Internal Validity

In an effort to ensure internal validity, all interviews have been recorded and transcribed for accurate data collection. Each interviewee was asked questions from a pre-generated list, through a Zoom meeting, so that each interview followed the same administration. All answers and observations are generated from a consistent setting and with minimal deviation. Any possible threats to internal validity were minimized as the study only took place over the course of one month and all participants were interviewed one-on-one with the same interviewer.

Data Analysis

The first questions that we asked each participant was how long they have been a public defender and what specific lawyering experience they have in defense. This was set up as a preliminary question to open up participants in engaging in the interview and establishing their

position as a defense attorney. As seen in Table 1, we had 3 participants identify as private attorneys while the other 7 said that they work as public defenders. In some cases, there were responses that included having experience as prosecutors, or switching from private back to public defense. While not a perfect split between participants, this variability between private and public defense has opened up new possible ways to analyze data to see if perhaps the difference in private or public defense has any impact with using BWC footage.

DA Perspective on BWCs

Since defense attorneys have the purpose of defending clients in court through any and all evidence they can acquire, and BWC footage falls under that purview, gaining the views of attorneys on the technology as an evidentiary tool is important. Through our interviews, we directly asked attorneys about their general views, as well as inquiring about any specific issues that may have appeared with BWCs. When defense attorneys were asked about their views on BWCs being used in handling cases, a majority responded positively with 8 attorneys giving full support and 2 presenting more mixed support. When asked about specific challenges experienced with BWCs, amongst the positive statements, there was even some variation as to why attorneys felt the way they did about BWC. The major theme that has been present amongst the positive answers by attorneys, is how BWCs have served to bring more clarity to a case and help dispel confusions amongst all court actors. As described by Attorney E,

“But you know, overall, their use has become very widespread and I think it has been a benefit to everybody involved. It has cleared up a lot more than it has confused.”

With other parts of the positive feedback, reinforcement has come from what new options and opportunities have been presented to the defense. With BWCs, attorneys are now able to see new sides of cases that they never had the chance to before, and with this new opportunity comes

a better chance of corroborating clients' stories and gathering facts. For instance, when asked for their view on BWCs, Attorney B responded,

“I mean they're great, they open the door to a lot of police practices we didn't know about. Our clients have always told us certain things, but there was no real way to kind of prove it.... I mean it's hard to believe, when our clients say something like that, but now we know thanks to body-worn camera footage, and I think it's something that comes out of it, I guess.”

Yet while there has been this positive reinforcement for the use of BWCs in courts, there are also some sentiments that we received from defense attorneys that detail more mixed feelings on the matter. For instance, Attorney H gave a response when asked about their views on BWC,

“I have mixed emotions with it. The reason why is it was a lot easier to defend a case before body worn cameras came out. Particularly with DWIs, most jurors can tell from a person's behavior and mannerisms whether or not they're intoxicated and before you only had the police describing it so it was easier to cross examine them about the mannerisms the person had consistent with sobriety. But if the jurors can see it themselves it's a whole lot easier, as a whole lot harder to win a case. So overall, I would say I don't love them.”

Essentially, for defense attorneys BWC are described as a sword and shield where they can be very helpful during a case, or make it very difficult. In fact, in the interview with Attorney B, they actually say,

“It's a sword and a shield, because it can either hurt us, or it can help us but it's something we can use later on to maybe negotiate a better plea offer and hopefully resolve the case.”

Outside of general views on BWCs, when asked about challenges with acquiring footage, storing footage, and technological issues that may appear with the technology, there was an overall assessment among respondents that suggest a general lack of issues. However, one issue that did appear in multiple responses, pertained to the length of time required for attorneys when BWCs are needed for a case. Whether it be for how long it may take to acquire footage, or for reviewing the footage itself, there seemed to be this sense of extra time needed. For the

acquisition of footage, according to participants, the issue did not stem from the prosecutors withholding it, but because of some problems experienced with BWCs when they are obtained from law enforcement. Attorney F gave some oversight into this with their response,

“There's been a few issues, mainly what you'll see a lot of is cops forgetting to turn their body-worn cameras on or that their body-worn camera is broken. Those are probably the biggest issues you run across. They tend to break at very important moments and it's very hard to say whether or not it's deliberate.”

Other problems that were identified by participants with BWCs and law enforcement were in the activation methods of the BWCs. Attorney B provided an explanation with a response,

“So basically what happens with body-worn camera footage is that there's a 20 or 30 second, I don't know what to call it like a run off period in the beginning of all the body-worn camera footage. So once a police officer presses the button to start recording that's when, like all the sound, audio, and visuals pop up, but it's always constantly supposed to be recording so before the officer presses that button like 20-30 seconds before hand there is supposed to be like a visual without an audio component. I found that in some cases we don't have that and I've definitely had to speak to my prosecutors to kind of find out what happened with that beginning period.”

This timeframe of unrecorded video and uncaptured audio has been an obstacle for defense attorneys as they struggle in gathering an accurate depiction of events when given the BWC footage for review. Yet while these two forms of challenges have been present in multiple answers amongst participants, there was an overall attitude of little challenge being present amongst acquiring, storing, and handling BWC footage. Amongst the questions designed for gathering the views of defense attorneys, there was a majority of positive responses. Whenever a negative response was inputted by an interviewee, it was generally shared by other attorneys. This leads to a conclusion that the issue brought up is a prevalent problem amongst attorneys.

Changes to Roles by BWCs

The roles of defense attorneys in court and how they engage themselves in cases is important to understand as they play an important part of defending the defendant. When attorneys were asked about any changes to their role with the implementation of BWCs we received varying responses amongst participants. One theme that seemed to emerge from some responses was that BWC serves as a resolution to cases in the form of neutral data. When asked if there were any changes to the roles of attorneys or the process of defense towards clients, Attorney J answered,

“Definitely. I mean, it can be time consuming going through body-worn camera. If there is body camera in a case I generally am not going to resolve it until I've seen the camera. And it's helpful to go through with the client again if they can't remember exactly what happened, or you know their version of events differs from what the police say. It can give you sort of a neutral view of things.”

Along the same line of thought, Attorney D gave a response with a similar theme as Attorney J, where the process of viewing evidence through BWC has increased the amount of time needed. In addition, there is a new connection with clients in needing to go over footage with them before making decisions. Yet interestingly enough, Attorney D also detailed some more changes that they noticed with BWCs in court.

“But you know, I think it has changed my practice in that we're doing a lot more bench trials. We're doing a lot less jury trials, because we basically have all the proof right there it's all recorded. So we can make decisions like ‘yeah I don't think this has to get as far as a jury trial, I think that we could just show this to the judge, and we all can go from there.’ So I think it has made it so there'd be less jury trials at least with the less serious cases.”

Yet while some of respondents have mentioned these observed changes to their practice and positions as defenders, others have given reason to believe that BWCs have not caused any significant changes to their work. When asked about any experienced changes, Attorney E replied,

“That one I’m going to have to say no to. It’s just another piece of evidence. I mean I’m young enough to never practice law without at least some level of understanding of the use of DNA evidence for example. There were members of the bar that were older than me. Prosecuting and defending cases before that technology came on board, and I think you know, that was a big change. I don’t think the body worn cameras represented as big a change as something like that particular cycle of advancement. It’s just another piece of evidence, you have to review and consider when you’re figuring out where things stand with the case. So I wouldn’t say it’s been some sort of a revolutionary or big sea change in terms of my practice.”

In essence, some defense attorneys see BWCs as not some big change to their work, but just another piece of the puzzle of evidence that they deal with on a daily basis. The mixed results given by participants for their perceptions of changes, or lack thereof, created by BWCs make it difficult to determine if their roles have actually changed with BWC. For some, they have greater opportunities, while for others, they just see more evidence being given to them.

Discovery

One of the more recent changes that have come into the court system in New York is the involvement of discovery laws and their impact on the exchanging of evidence between the prosecution and defense. We questioned if this new law helped attorneys in acquiring BWC footage and the process of reviewing evidence for court cases. The responses that we received from participants contained some surprising insights where there was a negative connotation of body-worn camera footage being added through discovery. When asked if discovery helps, Attorney C gave a response of,

“No absolutely not because discovery materials contain lab reports, police reports, statements of witnesses, 911 calls, maybe some medical records etc. Body-worn camera footage is nearly just a fraction of what we receive as part of discovering materials. So to say that it somehow helps to go through the discovery materials would not be accurate, that’s not how things work. You pretty much have to review everything, and although body-worn camera footage kind of gives you perspective on things, it does not reduce the time that one would spend reviewing discovery materials.”

Yet it is not just the fact that BWC footage will be turned over with all the other evidence for a case through discovery that has created an increase in the amount of time needed. Another potential issue for defense attorneys with BWCs and discovery was covered by Attorney I,

“... it adds more work because it's more discovery to review, so it does add more work it's a good thing, but i'm be honest like it takes a lot more work now to review my discovery on my cases because i'm reviewing a ton of body-worn camera like I said, sometimes like five cops.”

There are instances where through discovery, multiple BWCs are turned over for a case due to multiple officers being on a scene. This increase in the number of BWCs creates an even greater required amount of time for defense attorneys being spent on reviewing evidence, as there might be something on one BWC that is not captured on the others.

Desire For Future Research

In the conclusion of each interview, participants were asked about their opinions for what direction future research on body-worn cameras should take. This was to get another perspective on where research may go and what certain groups in the criminal justice system are interested in based on their experience. Amongst participants, some gave responses as to what they believe would be a good direction for research whilst others did not. Within the responses, Attorney A detailed a desire to study more on the placements of BWCs on officers and their effects on video quality.

“I don't know if they looked into what place is most effective to put a body-worn camera, and it probably is the chest because it's not in the way of the officers and they can move freely. But that, I think is one of the issues that has not been worked out, is kind of the placement of the camera.”

The placement of BWCs on officers was one of the more unique responses to the question for future research, while in other responses, there was a desire to take an approach towards BWC policy amongst departments. For instance, Attorney J gave a response,

“One of the things that's interesting to me is sort of the different agencies' policies on when the cameras have to be on and stuff and looking at when cameras are turned off. Whether that's intentionally or part of the policy or sometimes the cops say it's unintentionally, or they didn't have time to turn it on. That to me is sort of an area of interest as to why, in certain cases, the cameras aren't turned on.”

These views from defense attorneys on where research on BWCs should go are valuable as they are from the viewpoint of individuals who work closely with BWCs as evidentiary tools and have experienced many of its advantages, disadvantages, and limitations.

Limitations

Sample Size

This study has at least two limitations. Firstly, the sample size of attorneys was only 10, while there are currently over 100 public defense attorneys currently engaging in their practice in Monroe County. This is also not taking into account how many private attorneys there are in Monroe County as well that have dealings with BWCs in courts. In addition to being a small sample size compared to the rest of the county, Monroe County itself is not the only county in the United States that has BWCs being used by law enforcement. There is an even larger population of defense attorneys that could be interviewed for their perspectives on BWCs as an evidentiary tool. However, this is not to say that the data collected in this study is not valuable, but it should be recognized that this is by no means a full representation of all defense attorney perspectives of BWCs.

Online Interview Format

Doing these interviews through Zoom online yielded some advantages over in-person interviews, but alongside these were some challenges as well. One such challenge was interference of audio and video due to bad connection between the interviewer and interviewees. To get around this challenge, questions or statements were simply in need of repeating, but at

some points during interviews it seemed that both interviewer and participant were speaking over each other, causing transcriptions to contain errors and inconsistencies. Another problem that became apparent with doing an online format was that during some interviews, either participant or interviewer were participating in a setting with background. This led to some difficulties in communication at times or once again, transcriptions containing errors due to multiple audio inputs.

Time Constraint

One of the last major limitations associated with this study was the overall time limit that was created for the project. As the capstone of a student aiming to graduate within one semester, there were a lot of deadlines and constraints being placed on each portion of the project. In terms of the study itself, we only had from March 2nd, when we received IRB approval, to April 1st to conduct our interviews. Meanwhile our targeted population consists of an occupation whose time is already heavily condensed and filled with an overbearing workload, meaning that scheduling interviews would need to work around the clock of a college masters student and practicing defense attorneys.

Discussion

From this study, there are multiple themes that were present amongst the interviews. For the views of defense attorneys, BWCs are seen as a source of clarity while also serving as a sword and shield. In other studies that involved gaining the perspectives of court actors, defense attorneys were interviewed and amongst the findings, it appeared that there was a similar theme where a lot of confusion for cases was cleared up with the use of BWC (Smith, 2019, p. 35). Further themes from this study, involving the roles of defense attorneys and any changes that BWC may bring to that role, show BWC as either neutral sources of resolution for cases or just

another fish in the sea of evidence. No other studies have really capitalized on this specific subject with BWC and defense attorneys, so its unique presence brings new information for research. With discovery, the major theme discovered in this study was BWC forming extra work for defense attorneys, requiring more time and effort in an already heavy caseload. In other studies, there were other challenges associated with digital discovery. Whether it be storage issues from excessive content, or footage not coming to the defense in a timely manner (Smith, 2019; Turner 2019). The themes discovered in this study and from other sources of research have created unique challenges and ideas of how BWCs have affected courts in the criminal justice system.

Conclusion and Recommendations for Future Research

After looking at the analysis of the qualitative data obtained from this study, there seems to be an overall positive view on BWCs as evidentiary tools by defense attorneys. Their capability of presenting factual visual and auditory recordings for cases have been deemed a clarifying source of information that has helped alleviate confusion for not only defense attorneys, but other court actors as well. Based on the responses given by participants, it appears that defense attorneys have felt a change in their role of interacting with clients and processing evidence, but there has not been any apparent shift in power dynamics between court actors. BWCs have created an increased workload for defense attorneys and have also been both a blessing and a curse at times in formulating a defense. Yet overall, they are seen as a useful and helpful tool in court cases.

Due to the small sample size of this study, it is recommended that further research is conducted on defense attorney perspectives on BWCs with larger sample sizes as well as different settings to test for potential geographical biases. Just as we did in this study, we also

recommend that alongside the collection of data pertinent to future studies, researchers gather data on what defense attorneys would like to see studied in future research, to generate emerging themes that may be identified.

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Appendix A

	Rochester Institute of Technology INSTITUTIONAL REVIEW BOARD 585-475-7673 ~ www.research.rit.edu/hsro ~ hsro@rit.edu
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Office Use Only

Signed original received: _____
 Received by: _____
 Electronic copies received: _____

Request for IRB Review of Human Subjects Research

- ❖ To be completed by the investigator after reading the RIT Policy for the Protection of Human Subjects in Research, found in the *Institute Policies and Procedures Manual*, Section C5.0, and on the Office of Human Subjects Research website, http://www.rit.edu/research/hsro/process_geninfo.php.
- ❖ Submit BOTH, an electronic version to hsro@rit.edu AND the signed original of the completed Form A AND ALL attachments (consents, instruments, tasks, etc.) to HSRO, University Services Center, Suite #2400

Project Title: Defense Attorney Perspectives and Body-Worn Cameras		
SRS Proposal # (Required if associated with a sponsored project, # assigned by SRS and available in RAPID): _____		
Investigator's Name: Joseph Santoro	Investigator's Phone: 845-645-3844	Investigator's Email: Jas7182@rit.edu
Investigator's College and Department: College of Liberal Arts – Department of Criminal Justice		
Project Start Date: 2/20/2022	Date of IRB Request: 2/8/2022	Data Collection Start Date: 2/24/2022
If Student, Name of Faculty Supervisor: John McCluskey	Faculty's Phone: 585-662-8733	Faculty's Email: jdmgcj@rit.edu
If Not Employed or a Student at RIT, List Name, College & Dept. of RIT Collaborator: _____	RIT Collaborator's Phone: _____	RIT Collaborator's Email: _____
Will this project be funded externally? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Is the Investigator a student? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name of funding agency and proposal #: _____		
Status of project:	<input type="checkbox"/> Submitted on _____	<input type="checkbox"/> Funding pending <input type="checkbox"/> Funding confirmed
Do you have a personal financial relationship with the sponsor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please read RIT policy C4.0 – Conflict of Interest Policy Pertaining to Externally Funded Projects. Complete the Investigator's Financial Disclosure Form and attach it to this Form A. All information will be kept confidential.		

BY MY SIGNATURE BELOW, I ATTEST TO AN UNDERSTANDING OF AND AGREE TO FOLLOW ALL APPLICABLE RIT, SPONSOR, NEW YORK STATE, AND FEDERAL POLICIES AND LAWS RELATED TO CONDUCTING RESEARCH WITH HUMAN SUBJECTS. If significant changes in investigative procedures are needed during the course of this project, I agree to seek approval from the IRB prior to their implementation. I further agree to immediately report to the IRB any adverse incidents with respect to human subjects that occur in connection with this project.

	2/4/2022
Signature of Investigator	Date 2/8/2022
Signature of Faculty Advisor (for Student) or RIT Collaborator (for External Investigator)	Date
	Date

Complete the attached Research Protocol Outline and attach to this cover form with other required attachments.

Attachments required for all projects:

- Project Abstract
- Human Subjects Research (HSR) Completion Report. Create an account at (<https://www.citiprogram.org/>)
 Training information at <http://www.rit.edu/research/hsro/training>

Attachments required where applicable:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Informed Consent Materials | <input type="checkbox"/> Cover letter to subjects and/or parents or guardians |
| <input checked="" type="checkbox"/> Questionnaire or survey | <input type="checkbox"/> External site IRB approval |
| <input type="checkbox"/> Relevant Grant Application(s) | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Letter of Support from School Principal | |

Research Protocol Outline

- ❖ The Institutional Review Board (IRB) categorizes Human Subjects Research into three Risk Types (Exempt, No Greater than Minimal Risk, and Greater than Minimal Risk, defined at the end of this form). The IRB makes the final determination of risk type.
- ❖ Please complete this entire form (1 through 10 below). ENTER A RESPONSE FOR EVERY QUESTION. If a question does not apply to your project, please enter "N/A". Leaving questions blank may result in the form being returned to you for completion before it is reviewed by the IRB.
- ❖ Underlined terms are defined at the end of this form.

FOR ALL PROJECTS, please complete 1-10 below.

- 1) **If you believe your project qualifies for Exemption, which exemption number(s) apply?**
(Note: The IRB makes the final determination of Exemption)
This study is restricted to trained lawyers, who are defense attorneys, they will be informed of their voluntary participation in survey/interview settings. The purpose of the research is to explore the evidentiary value of Body Worn Camera footage and to understand the impact on defense processes.
2. **Describe the research problem(s) your project addresses.**
The effect of body worn camera on evidence, process, and outcomes in defense attorney offices.
3. **Describe the criteria and subject selection process for your project. Include the number of subjects and characteristics of the subject population (age and health status). Include the following:**
 - a) How will you recruit subjects?
Will email locally known defense attorney and seek assistance in encouraging participation in the Monroe County public defender's office. The project will essentially rely on a key informant and a snowball sample.
 - b) Identify criteria for inclusion or exclusion of any subpopulation.
None
 - c) Describe how you will gather data from human subjects.
Data will be collected through interviews with all participating subjects. Interviews will be conducted online through Zoom using an interview schedule.
4. **Will you include children in your research?** Yes No
If children are to be included, provide a plan that addresses the following:
 - a) Rationale for selecting or excluding a specific range of children,
 - a. N/A
 - b) Description of the expertise of the personnel for dealing with children at the ages included,
 - a. N/A
 - c) Description of the appropriateness of the facilities,
 - a. N/A
 - d) Inclusion of sufficient numbers of children to ensure meaningful data.
N/A
5. **Describe expected benefits to subjects and/or knowledge to be gained from your project.**
Subjects will be able to give their opinions on a matter involved in their field that will then be used in a capstone project for further research. The knowledge to be gained is further data on the effects of body-worn cameras in courts with a focus on defense attorneys and their perspectives on the devices as evidentiary tools.

6. **Describe the potential risks to subjects:**
- a) **Are the risks physical, psychological, social, legal or other?**
The defense attorneys will be reporting about the impact of evidence, it is unlikely to generate any more than minimal risk.
 - b) **Assess their likelihood and seriousness to subjects.**
N/A
 - c) **Discuss the potential benefits of the research to the subjects and others.**
Subjects will be able to express their experiences and views on a subject directly related to their work. Other researchers will be able to use the data collected from this study for further research regarding the influence of BWC on work, role, and experiences of defense attorneys.
 - d) **Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and others, or in relation to the importance of the knowledge to be gained as a result of the proposed research.**
The subjects have minimal risk, results will be shared with the larger community of defense attorneys and will become part of the iterative knowledge base on which attorneys organize practice and routines around BWC evidence. The subjects are legal professionals in Monroe County and will be asked questions that relate to their job of which they have full understanding.
 - e) **Describe the planned procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness.**
Data will be collected through a secure online platform, data will be de-identified for analysis and reporting purposes. Subjects will be notified of the voluntary nature of participation and the ability to terminate the interview, with no consequence, at any time.
 - f) **Where appropriate, describe plans for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects.**
N/A
7. **Describe the data collection process.**
- a) Will the data collected from human subjects be anonymous? Yes No
 - b) Will the data collected from human subjects be kept confidential? Yes No
Describe your procedures for providing anonymity or confidentiality.
We will not use participants' names or characteristics that would expose their identities in reports – pseudonyms will be used. Transcriptions of interviews will be de-identified and the participant names will be kept separately on a password protected encrypted file.
 - c) What is the time required of each subject? Will participation involve class time or out-of-class time?
Projected time required of each subject will be 25-30 minutes for an interview. Interviews will be outside of class time.
8. **Does your project require informed consent?** (See the definition and explanation in the pages that follow.)
 Yes No
If yes, describe:
- a) **How will you obtain consent?**
Participants will be given an informed consent form to read and then sign. Before each interview will be a verbal agreement for consent.
 - b) **Who will seek it?**
The researcher will be seeking consent from participants.
 - c) **What is the nature of information to be provided to prospective subjects?**
The informed consent form will detail the purpose of the study and what exactly will happen to the subjects during their participation. They will be informed of their participant rights, risks, benefits, and available contacts for further questions.

d) How will you document consent?

Oral consent through Zoom interviews.

9. Has or will this research be conducted at another university or site other than RIT?

Yes No

If yes, describe location.

Research will be conducted online through internet-connected communication platform Zoom.

If you are conducting this research at another university or college as well as at RIT, **please attach a copy of your request to that university or college's IRB, and a copy of their approval of your research.**

Not applicable..

10. Please attach a copy of all additional materials (Consents, protocol, scripts, instruments, tasks, etc.- everything a subject does or sees) to this application.

Appendix B

INTRODUCTION

We are pleased to invite you to voluntarily participate in a research study to examine body-worn cameras and the perspectives of defense attorneys. Please take whatever time you need to consider participating and be assured that you can voluntarily withdraw participation in the research at any time.

In this research study, we are evaluating the perspective of defense attorneys on body-worn cameras in courts.

WHAT IS INVOLVED IN THE STUDY?

If you decide to participate this is a basic outline of what will happen over the course of your participation. We will be conducting an interview with all participants and ask each a set of questions that have been created pre-interview. The interviews are anticipated to last for around 25-30 minutes.

The interviews will be done online through Zoom and will be recorded as well as transcribed for data accurate data collection. Once analysis of interviews is completed, the recordings and transcripts will be deleted from Zoom. You can stop participating at any time. Participation is voluntary and you may choose to not answer questions. If you stop or choose to not answer a question you will not lose any benefits.

RISKS

This study involves the following risks: We believe there are no known risks connected to participating but there may be some of which we are not aware.

BENEFITS TO TAKING PART IN THE STUDY?

It is reasonable to expect the following benefits from this research: There are no direct benefits to subjects. From information collected in this project, we will have a greater understanding on how body-worn cameras are affecting court processes and the perspectives of defense attorneys on cameras and digital evidence. However, we can't guarantee that you will personally experience benefits from participating in this study. Others may benefit in the future from the information we find in this study.

CONFIDENTIALITY

We will take the following steps to keep information about you confidential, and to protect it from unauthorized disclosure, tampering, or damage by deleting the Zoom recording after collecting the transcript of our discussion and checking its accuracy against the recording. Transcripts will be de-identified and your name will be kept separate from that transcript. Reports will use a pseudonym.

USE OF INFORMATION OR SPECIMENS

The information collected from you in this research study shall be stripped of identifying information and may be used for other research in the future. If we use the information in future research studies or share the information with other researchers so they can use it, we will first remove anything that would identify you. We would use or share only the de-identified information without getting additional permission (consent) from you.

INCENTIVES

There are no incentives being given to participants during this study.

YOUR RIGHTS AS A RESEARCH PARTICIPANT

Participation in this study is voluntary. You have the right not to participate at all or to leave the study at any time. Deciding not to participate or choosing to leave the study will not result in any penalty or loss of benefits to which you are entitled, and it will not harm your relationship with RIT.

CONTACTS FOR QUESTIONS OR PROBLEMS?

Call Joseph Santoro at 845-645-4833 or email Joseph Santoro at jas7182@rit.edu if you have questions about the study, any problems, unexpected physical or psychological discomforts, any injuries, or think that something unusual or unexpected is happening.

Appendix C

Preliminary Q - How long a PD, other lawyering experience? How long have you worked with/without BWC?

1. What are your views on body-worn cameras being used in handling cases?
2. How important is body-worn camera footage in resolving cases? Is it dependent on the type of case being processed?
3. Has your role as a defense attorney changed with body-worn cameras?
(PROBE)Have body-worn cameras changed the way you approach cases?
4. What if any problems do you encounter in using BWC footage? (Be sure to request examples for each of the following.)
 - a. Are there any problems with access to footage?
 - b. Are there any problems with discovery? Are you and/or your colleagues receiving the footage from prosecutors in a timely manner? If not, why?
 - c. Are there any technological problems associated with viewing footage? Are there any new technological needs due to the implementation of BWC?
 - d. Are there any problems with costs to the public defender's office associated with the use of footage? PROBE: Personnel? Equipment?
 - e. Are there any problems with storing footage?
 - f. Are there growing expectations among potential jurors about the availability of BWC footage? What information leads you to this conclusion?
5. Do you actively review body-worn camera footage in cases or do you only view it if you are looking for something and the footage is your only source?
6. Are there cases where BWC is not reviewed by PDs? Is there a decision-rule for looking at footage? Or office/official PD policy on BWC review?
7. Are there specific types of cases where body-worn cameras are most effective for your defense or create the most difficulty?
8. Has the discovery law changed the way body-worn cameras can now be utilized for defense attorneys? When you are working a case that has body-camera footage, when do you have the opportunity to look at the footage?
9. What is the biggest advantage, overall, that BWC offers, in general, to the defense? Has this changed over time?