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THESIS

EVERYONE IS DOING IT: THE EFFECTIVENESS OF BODY-WORN CAMERAS BEYOND RANDOMIZED CONTROLLED TRIALS

by

Robert M. Lawler

December 2018

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U.S. Customs and Border Protection (CBP) is at a decisional crossroads regarding body-worn camera implementation. Although the technology has gained widespread acceptance in the law enforcement community, there is a tremendous amount of conflicting information surrounding its efficacy. Neither the academic, nor civil liberty, nor law enforcement communities have examined the effectiveness of body-worn cameras in isolation or attempted to determine whether other police reforms accomplish the same goals. This thesis addresses whether CBP should adopt body-worn cameras. The author employed a comparative case study methodology to examine the impact of the technology within the context of other reform initiatives in two major police departments in which randomized controlled trials (RCTs) of body-worn cameras produced differing results. One RCT showed that the technology reduced the use of force and complaints while the other did not. By examining the effectiveness of other police reform initiatives in these departments before and after body-worn camera implementation, this research concludes that the technology has not been more effective at reducing the use of force or complaints than other reform measures. This thesis expands the body-worn camera discussion beyond the results of RCTs and places it in the broader context of police reform.

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EVERYONE IS DOING IT: THE EFFECTIVENESS OF BODY-WORN CAMERAS BEYOND RANDOMIZED CONTROLLED TRIALS

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ABSTRACT

U.S. Customs and Border Protection (CBP) is at a decisional crossroads regarding body-worn camera implementation. Although the technology has gained widespread acceptance in the law enforcement community, there is a tremendous amount of conflicting information surrounding its efficacy. Neither the academic, nor civil liberty, nor law enforcement communities have examined the effectiveness of body-worn cameras in isolation or attempted to determine whether other police reforms accomplish the same goals. This thesis addresses whether CBP should adopt body-worn cameras. The author employed a comparative case study methodology to examine the impact of the technology within the context of other reform initiatives in two major police departments in which randomized controlled trials (RCTs) of body-worn cameras produced differing results. One RCT showed that the technology reduced the use of force and complaints while the other did not. By examining the effectiveness of other police reform initiatives in these departments before and after body-worn camera implementation, this research concludes that the technology has not been more effective at reducing the use of force or complaints than other reform measures. This thesis expands the body-worn camera discussion beyond the results of RCTs and places it in the broader context of police reform.

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LIST OF ACRONYMS AND ABBREVIATIONS

CBP	Customs and Border Protection
CIRT	Critical Incident Review Team
CIT	crisis intervention training
CNA	Center for Naval Analyses
CR-TA	Collaborative Reform Initiative for Technical Assistance
DOJ	Department of Justice
FIT	Force Investigation Team
ICE	Immigration and Customs Enforcement
LVMPD	Las Vegas Metropolitan Police Department
MOA	memorandum of agreement
MPDC	Metropolitan Police Department of the District of Columbia
NUFRB	National Use of Force Review Board Police
PERF	Executive Research Forum
RBT	reality-based training
RCT	randomized controlled trial
TRB	Tactical Review Board
UFPD	Use of Force Policy Division

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EXECUTIVE SUMMARY

Over the last decade, police departments across the United States have come under escalating pressure from the public, the media, civil rights organizations, and politicians to increase the accountability of their officers and departmental transparency, particularly regarding the use of force. In response to this pressure, many of the nation's law enforcement agencies have either adopted or begun to explore body-worn camera technology. U.S. Customs and Border Protection (CBP), the nation's largest law enforcement agency, is not exempt from the body-worn camera phenomenon. Having explored the technology in 2014 and 2018, CBP is at a decisional crossroads regarding body-worn camera implementation.[1] Many other departments have relied on the results of randomized controlled trials (RCTs) of body-worn cameras to support their decision to adopt the technology. However, the most recent RCTs have produced mixed results as to whether body-worn cameras reduce the use of force or complaints. A 2015 RCT conducted in Las Vegas showed that body-worn cameras reduced the use of force and complaints against officers while a 2016 RCT conducted in Washington, D.C., revealed that the technology did not have a statistically significant effect on either area of concern.[2]

Many police departments have been quick to adopt the technology despite contradictory evidence concerning its effectiveness. However, neither the academic nor the law enforcement communities have closely examined its effectiveness in isolation or attempted to determine whether other means accomplish the same goals. It is unclear

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[1] Customs and Border Protection, *CBP Body-Worn Camera Feasibility Study and Camera Technology Report* (Washington, DC: Department of Homeland Security, June 6, 2016), https://www.dhs.gov/sites/default/files/publications/Customs%20and%20Border%20Protection%20-%20Body-Worn%20Camera%20Feasibility%20Study%20and%20Camera%20Technology%20-%20FY%202015.pdf; and Customs and Border Protection, "CBP to Evaluate Incident Driven Video Recording System" (press release, Customs and Border Protection, May 1, 2018), https://www.cbp.gov/newsroom/national-media-release/cbp-evaluate-incident-driven-video-recording-system.

[2] Anthony Braga et al., The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department (Arlington, VA: Center for Naval Analyses, September 28, 2017), https://www.cna.org/cna_files/pdf/IRM-2017-U-016112-Final.pdf; and David Yokum, Anita Ravishankar, and Alexander Coppock, "Evaluating the Effects of Police Body-Worn Cameras: A Randomized Controlled Trial" (working paper, Lab @ DC, October 20, 2017), http://bwc.thelab.dc.gov/TheLabDC_MPD_BWC_Working_Paper_10.20.17.pdf.

whether body-worn cameras have produced the benefits reported by some studies or if other peripheral measures taken by the departments involved in those studies are responsible.

The cost of enterprise-wide body-worn camera implementation is staggering for an agency as large and geographically dispersed as CBP. Although the agency has not publicly released its internal cost estimates, a recent Police Executive Research Forum (PERF) report indicates that the average annual cost associated with body-worn cameras was $2,069 per camera.[3] For CBP, this equates to approximately $103.45 million per year. This figure does not include any needed infrastructure upgrades such as increasing the bandwidth of CBP's network and the physical construction costs associated with information technology upgrades. This cost will affect CBP's ability to fund other border security initiatives. For example, the president has directed CBP to hire an additional 5,000 Border Patrol agents; to that end, CBP's fiscal year 2019 budget allocates $211 million to hire only 500 agents.[4] The annual cost of body-worn cameras is equivalent to hiring 367 Border Patrol agents.

To investigate the effectiveness of body-worn cameras beyond the results observed in the most recent RCTs, this thesis studies the cases of two large police departments and the impact of the peripheral measures and reforms they have taken in conjunction with body-worn camera implementation. It uses a comparative case study methodology to examine body-worn camera experiences as well as other reform initiatives of the Las Vegas Metropolitan Police Department (LVMPD) and the Metropolitan Police Department of the District of Columbia (MPDC) to help CBP leadership understand the potential efficacy of the technology and answer the question of whether CBP should adopt the use of body-worn cameras.

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[3] Police Executive Research Forum, *Cost and Benefits of Body-Worn Camera Deployments: Final Report* (Washington DC: Police Executive Research Forum, April 2018), http://www.policeforum.org/assets/BWCCostBenefit.pdf.

[4] Executive Office of the President of the United States, "Stronger Border Security" (fact sheet, Executive Office of the President, 2019), https://www.whitehouse.gov/wp-content/uploads/2018/02/FY19-Budget-Fact-Sheet_Border-Security.pdf.

Although empirical studies of body-worn cameras vary slightly, the majority measure the technology's impact on officer use of force and citizen complaints against officers to judge the technology's efficacy. By analyzing the other actions taken by the sample departments prior to the implementation of body-worn cameras and the impact of those actions on officer use of force and citizen complaints against officers, this thesis could determine whether the technology alone was effective at reducing the use of force and complaints or other reform measures were more effective.

Data from the LVMPD and the MPDC suggest that the technology has not been more effective than other police reform measures at reducing the use of force and complaints within those departments. The CBP context resembles that of the LVMPD and the MPDC. The agency has implemented numerous reform measures similar to those undertaken by the LVMPD and the MPDC to address the use of force and complaints—with the exception of adopting body-worn camera technology. These measures included changes in use-of-force policies, increased focus on scenario-based training, implementation of use-of-force review boards, and an increased focus on providing the public timely information regarding use-of-force incidents, specifically deadly use of force. CBP's results have been similar to those observed in the MPDC, despite the fact that CBP has not implemented a body-worn camera program. As observed in the MPDC, CBP's use-of-force data suggest that these measures have had a positive impact on decreasing the number of CBP's deadly force incidents.[5] However, the use of less-lethal force has

[5] PolicyLink and Advancement Project, *Values, Leadership, and Sustainability: Institutionalizing Community-Centered Policing* (Washington, DC: PolicyLink, April 2015), http://www.policylink.org/sites/default/files/Leadership_in_Policing_04282015_rev.pdf; Metropolitan Police of the District of Columbia, *2000 Annual Report Force Investigation Team* (Washington, DC: MPDC, 2001), https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/fit_ar_00.pdf; Michael R. Bromwich, Ann Marie Doherty, and Dennis E. Nowicki, *The Durability of Police Reform the Metropolitan Police Department and Use of Force: 2008–2015* (Washington, DC: Bromwich Group, January 2016), http://www.dcauditor.org/sites/default/files/Full%20Report_2.pdf; District of Columbia Office of Police Complaints, *Report on Use of Force by the Washington, D.C. Metropolitan Police Department Fiscal Year 2017* (Washington, DC: Police Complaints Board, January 23, 2018), https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/UOF%2017%20Final.pdf; and "CBP Use of Force Statistics," Customs and Border Protection, accessed June 27, 2018, https://www.cbp.gov/newsroom/stats/cbp-use-force.

increased in both agencies.[6] The LVMPD experienced different results. In 2017, after fully implementing its department-wide body-worn camera program, the department experienced a spike in deadly force incidents.[7] However, the department has realized a significant reduction in less-lethal use of force.[8] While CBP has not consistently published complaint statistics, overall complaints have risen in both the LVMPD and the MPDC despite body-worn camera implementation.[9]

According to findings from the case studies—and the similarities among CBP's reformative measures and those of the departments studied—body-worn cameras are not likely to reduce CBP's number of use-of-force incidents or complaints made against CBP law enforcement personnel. If CBP's reasoning for adopting the technology is to address the use of force and complaints, the agency may not realize the desired results. However, if the agency's reasoning for adopting body-worn cameras is to increase its transparency, CBP *may* realize that goal. As demonstrated by the LVMPD case study, departments have used the technology to provide more information to the public regarding use-of-force events. When departments release body-worn camera footage in a timely fashion and in

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[6] Customs and Border Protection, "CBP Use of Force Statistics"; and District of Columbia Office of Police Complaints, *Report on Use of Force*.

[7] Office of Internal Oversight, *Use of Force Statistical Analysis 2012–2016* (Las Vegas: Las Vegas Metropolitan Police Department, 2017), https://www.lvmpd.com/en-us/InternalOversightConstitutional Policing/Documents/Use%20of%20Force%20Statistical%20Analysis%202012-2016%20-%20051117.pdf; George Fachner and Steven Carter, *Collaborative Reform Model: Final Assessment Report of the Las Vegas Metropolitan Police Department* (Alexandria, VA: Center for Naval Analyses, May 2014), https://www.lvmpd.com/en-us/Documents/LVMPD_Collab_Reform_Final_Report_v6-final.pdf; and Las Vegas Metropolitan Police Department, "Assistant Sheriff Todd Fasulo Briefs the Media on December 9, 2017 OIS" (press release, LVMPD, December 13, 2017), https://www.lvmpd.com/en-us/Press% 20Releases/PO%20284b%2012-13-17.pdf.

[8] Office of Internal Oversight, *Use of Force Statistical Analysis 2012–20*16; and Fachner and Carter, *Final Assessment Report of the LVMPD*.

[9] Megan Collins et al., *Assessment of the Collaborative Reform Initiative in the Las Vegas Metropolitan Police Department: A Catalyst for Change* (Boston: Crime and Justice Institute, 2016), https://ric-zai-inc.com/Publications/cops-w0834-pub.pdf; Las Vegas Metropolitan Police Department, "2016 Internal Affairs Bureau Total Complaints Received" (fact sheet, LVMPD, 2017), https://www. lvmpd.com/en-us/Documents/2016_IAB_Totals.pdf; District of Columbia Office of Police Complaints, *Annual Report Fiscal Year 2010* (Washington, DC: Police Complaints Board, 2011), https:// policecomplaints.dc.gov/sites/default/files/dc/sites/police%20complaints/publication/attachments/annual_re port_2010_fnl.pdf; District of Columbia Office of Police Complaints, *Annual Report 2014* (Washington, DC: Police Complaints Board, 2014), https://policecomplaints.dc.gov/page/annual-reports-for-OPC; and District of Columbia Office of Police Complaints, *Annual Report 2017* (Washington, DC: Police Complaints Board, 2017), https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of% 20police%20complaints/publication/attachments/OfficeofPoliceComplaints_AR17.pdf.

conjunction with a formalized public information release program, the technology has shown promise in increasing transparency. Therefore, to realize a benefit in transparency, CBP will likely have to formalize a process for the timely release of body-worn camera footage of use-of-force events.

Based on the impact of body-worn cameras on the areas of concern identified in this thesis, the findings do not support the adoption of the technology by CBP. However, it would be naïve to ignore the external pressures and expectations of the agency to do so.[10] It would be equally imprudent not to acknowledge that body-worn cameras, perhaps erroneously, are now seen among the best practices of policing.[11] Recognizing that the decision to implement body-worn cameras may not be based solely on the technology's proven efficacy, this thesis makes the following recommendations if CBP decides to implement body-worn cameras.

This research has shown that body-worn cameras may not have the impact expected by many of the stakeholders. Therefore, CBP should properly manage the stakeholders' expectations. The agency should clearly express its reasoning for adopting the technology and be realistic as to what it expects from the technology. This research indicates that body-worn camera implementation does not necessarily equal a reduction in the use of force and complaints. Non-governmental organizations, political leaders, the public, and internal stakeholders should be made of aware of this fact. This thesis has also shown that CBP may be able to leverage body-worn camera technology to increase the agency's transparency. To accomplish this, CBP should examine the LVMPD's process of using body-worn camera footage in conjunction with a proactive public information release

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[10] "ACLU CBP Body-Camera Announcement Fails to Address Accountability Crisis," American Civil Liberties Union, November 12, 2015, https://www.aclu.org/news/aclu-cbp-body-camera-announcement-fails-address-accountability-crisis; "Rep. Adriano Espaillat Introduces ICE and CBP Body Camera Legislation," Official Website of Congressmember Adriano Espaillat, March 21, 2017, https://espaillat.house.gov/media/press-releases/rep-adriano-espaillat-introduces-ice-and-cbp-body-camera-legislation; U.S. House of Representatives, Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2018*, Report 115–239 (Washington, DC: Government Printing Office, July 21, 2017), https://www.congress.gov/115/crpt/hrpt239/CRPT-115hrpt239.pdf.

[11] American Civil Liberties Union, "Implementing Law Enforcement Best Practices for Our Nation's Biggest Police Force (CBP)" (fact sheet, ACLU, November 5, 2015), https://www.aclu.org/fact-sheet/fact-sheet-implementing-law-enforcement-best-practices-our-nations-biggest-police-force.

process. CBP needs to be willing and able to show the public and other concerned parties videos of use-of-force incidents in a timely manner to realize this benefit.

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18 months. We had some really challenging and fun times throughout. I thank each of you! I look forward to staying in contact and seeing where our next endeavors take us.

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I. INTRODUCTION

Over the last decade, several high-profile police use-of-force incidents, such as those in Ferguson, Missouri, Baltimore, Maryland, and New York City, have captured the attention of the nation. Often, the facts surrounding these incidents are obscured by conflicting witness and officer accounts of the events.[1] As a result, cities across the nation have experienced large-scale violent protests due to perceived injustices by police officers. This civil unrest has led to escalating calls from the public, the media, civil rights organizations, and politicians for law enforcement agencies throughout the country to increase their accountability and transparency.

Many of these stakeholders have begun to view body-worn cameras as the ultimate solution to the perceived problems associated with law enforcement. They believe the technology will increase law enforcement agencies' transparency and individual officer accountability as well as reduce the number of police use-of-force incidents.[2] The executive branch echoes this sentiment. According to the Bureau of Justice Assistance under the U.S. Department of Justice (DOJ), law enforcement agencies can use the technology to increase transparency and deter inappropriate behavior by officers.[3] In 2015, U.S. Attorney General Loretta E. Lynch announced the executive branch's support to expand the use of body-worn cameras among the nation's law enforcement agencies. As part of former President Obama's pledge to increase the trust between law enforcement and communities, the DOJ awarded grants for the purchasing of body-worn cameras and associated training to 73 local and tribal police organizations in 32 states. The grants totaled over $23.2 million.[4]

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[1] Karson Kampfe, "Police-Worn Body Cameras: Balancing Privacy and Accountability through State and Police Department Action," *Ohio State Law Journal* 76, no. 5 (2015): 1153, https://kb.osu.edu/bitstream/handle/1811/75460/OSLJ_V76N5_1153.pdf.

[2] Kampfe.

[3] Bureau of Justice Assistance, *Body-Worn Camera Toolkit: Body-Worn Camera Frequently Asked Questions* (Washington, DC: Department of Justice, 2015), https://www.bja.gov/bwc/pdfs/bwc_faqs.pdf.

[4] Department of Justice, Office of Public Affairs, "Justice department Awards Over $23 Million in Funding for Body Worn Camera Pilot Program to Support Law Enforcement Agencies in 32 States" (press release, Department of Justice, September 21, 2015), https://www.justice.gov/opa/pr/justice-department-awards-over-23-million-funding-body-worn-camera-pilot-program-support-law.

In response to the escalating calls for increased police transparency and accountability, many of the nation's law enforcement agencies have either deployed or begun to explore body-worn camera technology. U.S. Customs and Border Protection (CBP), the nation's largest law enforcement agency, is not exempt from the body-worn camera phenomenon. Having explored the technology in 2014 and 2018, CBP is at a decisional crossroads regarding body-worn camera implementation.[5] This thesis examines the body-worn camera experiences of two major police departments in the United States to help CBP leadership understand the potential efficacy of the technology.

Body-worn camera advocates claim that the technology will have a calming effect on police–citizen interactions, which will lead to fewer use-of-force incidents and fewer citizen complaints against officers.[6] Many decision-makers have relied on the results of some randomized controlled trials (RCTs) to conclude that implementing the technology is the correct decision. However, RCTs on body-worn cameras have produced mixed results as to whether the technology actually reduces the use of force or complaints against officers. For example, a 2015 RCT conducted in Las Vegas showed that body-worn cameras reduced the department's use of force and complaints against officers while a 2016 RCT conducted in Washington, D.C., revealed that the technology did not have a statistically significant effect on either area of concern.[7] Furthermore, relying on RCT results alone may not be prudent. RCTs are predictive in nature and, while they do contribute to the body of knowledge surrounding a given subject, researchers should

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[5] Customs and Border Protection, *CBP Body-Worn Camera Feasibility Study and Camera Technology Report* (Washington, DC: Department of Homeland Security, June 6, 2016), https://www.dhs.gov/sites/default/files/publications/Customs%20and%20Border%20Protection%20-%20Body-Worn%20Camera%20Feasibility%20Study%20and%20Camera%20Technology%20-%20FY%202015.pdf; and Customs and Border Protection, "CBP to Evaluate Incident Driven Video Recording System" (press release, Customs and Border Protection, May 1, 2018), https://www.cbp.gov/newsroom/national-media-release/cbp-evaluate-incident-driven-video-recording-system.

[6] Jennifer L. Doleac, "Do Body-Worn Cameras Improve Police Behavior?," *Up Front* (blog), October 25, 2017, https://www.brookings.edu/blog/up-front/2017/10/25/do-body-worn-cameras-improve-police-behavior/.

[7] Anthony Braga et al., *The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department* (Arlington, VA: Center for Naval Analyses, September 28, 2017), https://www.cna.org/cna_files/pdf/IRM-2017-U-016112-Final.pdf; and David David Yokum, Anita Ravishankar, and Alexander Coppock, "Evaluating the Effects of Police Body-Worn Cameras: A Randomized Controlled Trial" (working paper, Lab @ DC, October 20, 2017), http://bwc.thelab.dc.gov/TheLabDC_MPD_BWC_Working_Paper_10.20.17.pdf.

combine their results with other information gathered to come to a complete conclusion.[8] To investigate the impact that body-worn cameras have on reducing the use of force and complaints as well as the technology's ability to increase agency transparency, this work studies the cases of two large police departments and the impact of the peripheral measures and reforms they have taken in conjunction with body-worn camera implementation.

A. CBP CONTEXT

1. Initial CBP Efforts

In 2014, CBP began to explore the possibility of utilizing body-worn cameras. At the direction of former CBP Commissioner R. Gil Kerlikowske, the agency conducted an operational utility evaluation of the technology.[9] Two operational issues of concern for the agency guided the methodology of the CBP study: "Does the information provided by body-worn camera technology contribute to the overall CBP mission?" and "Can body-worn cameras be employed by typical CBP personnel in the operational environment?"[10] CBP's evaluation consisted of three phases: a controlled environment phase conducted at training academies, a field evaluation phase conducted at field locations, and a data analysis phase. However, the study was relatively small in scope and size for an agency consisting of over 45,000 sworn law enforcement officers nationwide—only 90 users from CBP's three major law enforcement components participated in the evaluation.[11] Basic statistical calculation models suggest that CBP would have had to use a sample size of approximately 1,486 officers and agents wearing body-worn cameras to obtain data with a 95 percent confidence level and a 2.5 percent margin of error.[12] In other words, a much larger sample

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[8] Angus Deaton and Nancy Cartwright, "Understanding and Misunderstanding Randomized Controlled Trials," *Social Science & Medicine* 210 (August 2018): 2–21, https://doi.org/10.1016/j.socscimed.2017.12.005.

[9] Customs and Border Protection, *Body-Worn Camera Feasibility Study*.

[10] Body-Worn Camera Working Group, *Body-Worn Camera Feasibility Study Report* (Washington, DC: Customs and Border Protection, August 2015), 4, https://www.cbp.gov/sites/default/files/documents/body-worn-camera-20151112.pdf.

[11] Body-Worn Camera Working Group.

[12] "Sample Size Calculator," Raosoft, accessed August 1, 2017, http://www.raosoft.com/samplesize.html.

size would have been preferred to obtain meaningful data. CBP's study was further limited by the length of time cameras were deployed across eight operational sites. Each site was given only 30 days to train officers and agents to use, deploy, and evaluate the technology during the field evaluation phase.[13] This short deployment time at each location decreased the chance of capturing events for a thorough quantification of the technology's impact on the agency. As a result, much of the data collected by CBP came via anecdotal user feedback.

Limited by the availability of external research and the abbreviated internal research timeframe, the initial CBP study was more of a proof of concept than a rigorous evaluation. CBP, like most other agencies, was left to rely on the information consolidated in two 2014 reports published by the Police Executive Research Forum (PERF) and the DOJ when considering the possible benefits of using body-worn cameras. Unfortunately, these reports and their associated studies did not examine other police reforms—put in place concurrently with the technology's implementation—that may also have affected the results observed. The initial CBP study concluded that more research was needed regarding the benefits and concerns of implementing a body-worn camera program within the agency.[14]

2. External Pressure

The U.S. Congress continues to increase the pressure on CBP to adopt body-worn camera technology. In May 2017, Representative Adriano Espaillat from New York's 13th Congressional District introduced a bill to compel Immigration and Customs Enforcement (ICE) and CBP to equip all of their law enforcement personnel with body-worn cameras. According to the proposed legislation, H.R. 1608, both agencies are required to have policies in place that mandate their officers and agents continuously record their activities throughout their entire shift.[15] Furthermore, each of the previous four congressional

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[13] Body-Worn Camera Working Group, *Body-Worn Camera Feasibility Study*.

[14] Customs and Border Protection, *Body-Worn Camera Feasibility Study*.

[15] "Rep. Adriano Espaillat Introduces ICE and CBP Body Camera Legislation," Official Website of Congressmember Adriano Espaillat, March 21, 2017, https://espaillat.house.gov/media/press-releases/rep-adriano-espaillat-introduces-ice-and-cbp-body-camera-legislation.

appropriation bills has allocated funding for the agency to continue moving toward that end.[16]

Special interest groups are also pressuring CBP to implement the technology. Jay Stanley, a senior policy analyst for the American Civil Liberties Union (ACLU), writes,

> Although we generally take a dim view of the proliferation of surveillance cameras in American life, police on-body cameras are different because of their potential to serve as a check against the abuse of power by police officers. Historically, there was no documentary evidence of most encounters between police officers and the public, and due to the volatile nature of those encounters, this often resulted in radically divergent accounts of incidents. Cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse.[17]

The National Immigration Forum, an advocacy group for immigrants and immigration, states, "For an agency in which more than 2,000 incidents of misconduct were reported over a seven-year period, implementation of body-worn cameras across CBP would be a significant step toward repairing the agency's image."[18] In November 2015, former CBP Commissioner Kerlikowske announced that CBP would embark on further body-worn camera research based on the results of the agency's initial operational utility evaluation.[19]

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[16] U.S. House of Representatives, Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2018*, Report 115–239 (Washington, DC: Government Printing Office, July 21, 2017), https://www.congress.gov/115/crpt/hrpt239/CRPT-115hrpt239.pdf; U.S. House of Representatives, Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2017*, Report 114–668 (Washington, DC: Government Printing Office, July 6, 2016), https://www.congress.gov/114/crpt/hrpt668/CRPT-114hrpt668.pdf; U.S. House of Representatives, Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2016*, Report 114–215 (Washington, DC: Government Printing Office, July 21, 2015), https://www.congress.gov/114/crpt/hrpt215/CRPT-114hrpt215.pdf; and U.S. House of Representatives, Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2015*, Report 113–481 (Washington, DC: Government Printing Office, June 19, 2014), https://www.congress.gov/113/crpt/hrpt481/CRPT-113hrpt481.pdf.

[17] Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All" (working paper, American Civil Liberties Union, October 2013), 1, http://www.urbanaillinois.us/sites/default/files/attachments/police-body-mounted-cameras-stanley.pdf.

[18] James Lopez, Jacinta Ma, and Josh Breisblatt, *Body Cameras and CBP: Promoting Security, Transparency and Accountability at Our Nation's Borders* (Washington, DC: National Immigration Forum, November 6, 2015), 7, http://immigrationforum.org/wp-content/uploads/2015/11/Body-Cameras-and-CBP-Report-11062015.pdf.

[19] Customs and Border Protection, Public Affairs Office, "CBP Announces Way Forward on the Use of Body-Worn Cameras" (press release, Customs and Border Protection, November 12, 2015), https://www.cbp.gov/newsroom/national-media-release/cbp-announces-way-forward-use-body-worn-cameras.

The ACLU expressed displeasure with the announcement that CBP needed further testing before reaching a decision on body-worn cameras. ACLU Director of the New Mexico Regional Center for Border Rights, Vicki Gaubeca, says, "CBP, our nation's largest law enforcement agency, is in a deep accountability crisis with an urgent need for systemic cultural changes."[20] In referring to CBP's lack of a body-worn camera program, Gaubeca goes on to say, "Every day CBP drags its feet, they enable Border Patrol agents to abuse their power, profile residents, and kill unarmed civilians in incidents that to date have been shrouded in secrecy and offend American values of equality and justice."[21]

The ACLU's policy counsel at the Washington Legislative Office, Chris Rickerd, claims, "Based on its record of unaccountable abuses, CBP has not earned any benefit of the doubt in moving hesitantly on body-worn-camera deployment."[22] Rickerd adds that the agency lags behind other members of the law enforcement community in instituting measures considered among the best practices in the profession. Rickerd also asserts that private citizens have filmed many of the agency's worst excessive use-of-force incidents, and he believes that if CBP officers and agents were equipped with body-worn cameras, more abuses would be brought to light. He says that it is essential for the agency to adopt the technology if it is going to regain the trust of the communities along the nation's borders.[23]

B. PROBLEM STATEMENT

There is a tremendous amount of conflicting information surrounding many aspects of body-worn camera usage and effectiveness. Unfortunately, while many municipal police departments have already adopted the technology and established policies, neither the academic, nor civil liberty, nor law enforcement communities have closely examined the effectiveness of the technology in isolation or attempted to determine whether other means

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[20] "ACLU CBP Body-Camera Announcement Fails to Address Accountability Crisis," American Civil Liberties Union, November 12, 2015, https://www.aclu.org/news/aclu-cbp-body-camera-announcement-fails-address-accountability-crisis.

[21] American Civil Liberties Union.

[22] American Civil Liberties Union.

[23] American Civil Liberties Union.

may accomplish the same goals. In other words, it is unclear whether body-worn cameras have produced the benefits reported by some studies or if other peripheral measures taken by the departments involved in those studies are responsible. It is important to understand the true causality between the purported positive results and the technology when considering such a major investment. Due to CBP's size and geographical dispersion, the cost of enterprise-wide body-worn camera implementation is staggering. While the agency has not publicly released its internal costs estimates, a recent PERF report provides some insight as to what CBP may expect. The report examines the total annual costs associated with body-worn cameras in three police departments. The average cost per camera is $2,069.[24] For CBP, this equates to approximately $103.45 million per year. This figure does not include any needed infrastructure upgrades such as increasing the bandwidth of CBP's network and the physical construction costs associated with information technology upgrades. This cost will affect every American taxpayer as well as CBP's ability to fund other border security initiatives. For example, the president has directed CBP to hire an additional 5,000 Border Patrol agents; to that end, CBP's fiscal year 2019 budget allocates $211 million to hire only 500 agents.[25] The annual cost of body-worn cameras is equivalent to hiring 367 Border Patrol agents.

Furthermore, CBP has yet to identify an operational need for the technology. The agency has already taken successful measures to increase the agency's transparency and decrease use of force, as evidenced by the approximately 70 percent decrease in the agency's use of deadly force since 2012.[26] In fact, CBP officers and agents have resorted to using force in only .14 percent of the agency's enforcement actions in fiscal year 2016.[27] By comparison, the New York City Police Department (NYPD), a department equivalent

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[24] Police Executive Research Forum, *Cost and Benefits*.

[25] Executive Office of the President of the United States, "Stronger Border Security" (fact sheet, Executive Office of the President, 2019), https://www.whitehouse.gov/wp-content/uploads/2018/02/FY19-Budget-Fact-Sheet_Border-Security.pdf.

[26] "CBP Use of Force Statistics," Customs and Border Protection, accessed June 27, 2018, https://www.cbp.gov/newsroom/stats/cbp-use-force.

[27] "CBP Enforcement Statistics FY2018," Customs and Border Protection, accessed August 15, 2018, https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics; and Customs and Border Protection, "CBP Use of Force Statistics."

in size to CBP, recorded using force in 1.3 percent of the department's arrests.[28] Despite the lack of an identified need to implement the technology, pressure by civil rights organizations and elected officials has compelled CBP to conduct another body-worn camera study. The agency began a second six-month body-worn camera evaluation in mid-2018. This new evaluation includes an assessment of other video technology and is ongoing at the time of this writing.[29]

As described in the literature review Chapter II, research does not indicate to what extent or why body-worn cameras have been effective in RCTs at reducing police use-of-force incidents and complaints against officers and increasing agency transparency in some cases but not in others. In the body-worn camera context, "transparency" refers to agencies being more willing to submit to scrutiny.[30] CBP is facing the major financial decision of whether to invest significant funds in a technology for which the evidence of its efficacy is questionable. Therefore, it seems prudent for the agency to investigate the causality between body-worn cameras and the number of use-of-force incidents and complaints, as well as any benefits in transparency, among police departments that have already implemented the technology. This investigation should examine the efficacy of body-worn cameras in the broader context of police reform and beyond the results of the RCTs conducted on the technology.

C. RESEARCH QUESTION

This thesis examines the most current research available on body-worn camera technology regarding its expectations, limitations, effectiveness, and associated concerns. Synthesizing this information with research on other law enforcement reformative initiatives—and taken in conjunction with or prior to body-worn camera implementation

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[28] New York City Police Department, *NYPD Annual Use-of-Force Report* (New York: NYPD, December 28, 2017), http://www1.nyc.gov/assets/nypd/downloads/pdf/use-of-force/use-of-force-2016.pdf.

[29] Customs and Border Protection, "Incident Driven Video Recording System."

[30] United Nations Office on Drugs and Crime, *Handbook on Police Accountability, Oversight and Integrity* (New York: United Nations, 2011), https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf.

in other agencies—and the impact of those initiatives, this thesis addresses the following question: Should CBP adopt the use of body-worn cameras?

To answer this overarching research question, this thesis examines the following sub-questions:

1. Do conditions exist that have shown body-worn cameras to be effective at decreasing use-of-force incidents and complaints against officers and increasing agency transparency?

2. Under what conditions have body-worn cameras not been effective?

3. Do CBP's conditions more closely resemble those of the departments that have seen improvements from implementing body-worn cameras or those that have not?

4. Are there options other than body-worn cameras that CBP can utilize to increase its transparency and reduce the use of force and complaints against officers and agents?

D. ARGUMENT

Body-worn cameras are not the only option agencies have to increase their transparency and reduce the use of force and complaints. There are other means to accomplish these goals. This thesis argues that the purported success of body-worn cameras can be partially attributed to other measures taken by departments in conjunction with body-worn camera technology implementation. These measures include better use-of-force policies, use-of-force review boards, increased training, and the publishing of use-of-force and complaint data. Therefore, it is important to understand the impact of broader police reforms when judging the efficacy of body-worn cameras.

E. RESEARCH DESIGN

1. Object of Study

This research examines the following areas: the reasoning and expectations associated with body-worn camera implementation in two large police departments; the

impact the technology had on these departments; and the efficacy of the peripheral measures these departments took prior to, along with, or immediately following body-worn camera implementation. This thesis furthers the body-worn camera discussion by examining the technology as a part of a larger pool of practices that address police use of force, complaints against officers, and transparency issues associated with law enforcement.

2. Selection Criteria

This thesis analyzes the reform processes as well as the body-worn camera experiences of the Las Vegas Metropolitan Police Department (LVMPD) and the Metropolitan Police Department of the District of Columbia (MPDC). These departments were chosen because they have each received over $500,000 in DOJ grants for body-worn camera implementation, which is an indication of a large program and a commitment by the respective departments to establish a successful body-worn camera program. Although CBP has many more sworn law enforcement officers than these agencies, the DOJ classifies the LVMPD and the MPDC as large police departments.[31] The LVMPD and the MPDC represent both ends of the spectrum regarding body-worn camera RCT results. The body-worn camera study from the LVMPD revealed positive results, thus supporting the results of earlier RCTs, while the MPDC's RCT represents a divergent case as its study concluded that the technology produced no statistically significant change in the number of officer use-of-force incidents, complaints against officers, or prosecutions.[32]

3. Scope and Limitations

The scope of this thesis is limited to areas of concern that are directly related to decisions pertaining to body-worn implementation: the technology's effectiveness, reasoning for implementation, and other measures taken concurrently with the

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[31] Brian A. Reaves, "Local Police Departments, 2013: Personnel, Policies, and Practices," *BJS Bulletin* (May 2015), https://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf.

[32] Braga et al., *New Findings from a Randomized Controlled Trial*; Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras"; and Robert K. Yin, *Case Study Research: Design and Methods*, 5th ed. (Los Angeles: SAGE, 2014).

technology's implementation. For comparative analysis purposes, this thesis is limited by the size of the sample departments, their organizational structures, and lack of geographic dispersion. This is an unavoidable circumstance, as CBP employs over 50,000 law enforcement officers and agents, comprising three distinct operational components with diverse missions and operating environments nationwide and overseas. Furthermore, this work does not substantially address the legalities and privacy issues associated with body-worn cameras beyond what is required to understand their impact on the law enforcement agencies, as laws and regulations are quickly evolving in efforts to keep pace with technological advances, and these areas are outside the scope of this research.

4. Instrumentation

This thesis uses data from a diverse range of sources: journal articles, news articles, scientific studies, congressional bills, publicly available department documents and data, and publicly available survey results. These sources provide insight into the expectations and limitations associated with the technology, its impact on the departments, the departments' motivation and circumstances behind body-worn camera implementation, and the efficacy of the various reform actions the departments took. The researcher also interviewed a key figure in the LVMPD's body-worn camera implementation process to form a baseline for analysis and better understand the unique experiences of that department.

5. Methodology

This thesis uses a comparative case study methodology, also known as a multiple-case study design, which analyzes multiple cases using a parallel-structured format.[33] The researcher chose this approach because it facilitates the examination of cases with varying outcomes.[34] This design allowed the researcher to examine the independent and dependent variables associated with body-worn camera implementation in the selected departments

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[33] Yin, *Case Study Research*; Lauren Wollman, "Research Methods, Part II: Case Study" (lecture, Naval Postgraduate School, Monterey, CA, 2017), https://www.chds.us/coursefiles/NS4081/lectures/methods_case_study_v02/methods_case_study_transcript.pdf.

[34] Yin, *Case Study Research*.

to draw conclusions concerning the causal relationship among the variables. Although empirical studies of body-worn cameras vary slightly, the majority of them measure the technology's impact on officer use of force and citizen complaints against officers to judge the technology's efficacy. By analyzing the other actions taken by the sample departments prior to the implementation of body-worn cameras and the impact of those actions on officer use of force and citizen complaints against officers, the researcher attempted to determine whether the technology alone was effective or any observed benefits were influenced by other measures.

The research for this thesis was conducted in three phases. The first phase focused on collecting reform initiative, complaint, and use-of-force data on the selected departments. The author accomplished this by gathering data surrounding the adoption of body-worn cameras in these departments and, in one case, interviewing a key representative involved in the technology's adoption. This portion of the research took the discussion beyond the results of the RCTs conducted within these departments and examined other interventions the departments introduced concurrently. Secondly, this work comparatively analyzed the results discovered in the first phase in an effort to draw conclusions about the causal relationships associated with the success or failure of body-worn camera implementation. After synthesizing the data, the researcher compared CBP's conditions with the results of the research. From that comparison, the researcher drew logical inductive conclusions to answer the main research question and provide recommendations.

6. Significance of Study

The contribution of the thesis to the broader law enforcement community is the determination of any antecedent conditions that lead to or diminish body-worn camera technology's effectiveness. This research attempted to determine whether there was a conditional generalization associated with the purported efficacy of body-worn cameras. The information revealed in this thesis could be useful to any law enforcement agency making decisions regarding the implementation or continued use of this technology. Specifically for CBP, this thesis generated information pertinent to deciding whether the

agency has a need for body-worn cameras and considering what possible effects the technology will have.

F. THESIS OVERVIEW

Chapter II provides a detailed review of contemporary body-worn camera literature. It examines the expectations and limitations of the technology. The chapter reviews body-worn camera research conducted by the academic and law enforcement communities. It identifies common as well as divergent results in areas concerning the efficacy of body-worn cameras in reducing officer use of force and complaints against officers and increasing agency transparency and officer accountability—as well as the evidentiary value of the technology. The literature review also examines major concerns associated with body-worn cameras. These concerns include privacy, community impact, financial, and logistical issues. The chapter also discusses the literature surrounding the importance of sound policy creation. Chapters III and IV present case studies of two major city police departments. Each case study focuses on the individual department's experience with body-worn camera technology such as the reasoning for implementing the technology, the department's expectations of the devices, and the impact and effect body-worn cameras had on the department. The case studies also examine other reform measures and initiatives taken by the departments to reduce officer use of force and complaints against officers and increase agency transparency and officer accountability. Chapter V synthesizes the information discovered during the research and analyzes those findings within the context of CBP. Chapter VI provides recommendations for executive leadership and identifies areas for future research.

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II. LITERATURE REVIEW

Over the past five years, Customs and Border Protection (CBP) has come under increasing political and public pressure to reduce its use of force, bolster the agency's transparency, and increase the accountability of its officers. As many police departments in the United States have done, CBP is exploring the use of body-worn camera technology to address this pressure. However, despite the sudden acceptance by police agencies to implement body-worn camera programs, existing studies do not reveal conclusive data on their effectiveness. Furthermore, research has uncovered a number of concerns, which CBP will need to address if the agency moves forward with body-worn camera implementation. Due to costs associated with instituting and maintaining a body-worn camera program in an agency as large and geographically dispersed as CBP, it is imperative that the organization fully understand what the technology provides, what it does not provide, and the concerns associated with it. To that end, this literature review evaluates the most significant and current research concerning the efficacy of body-worn camera technology, the potential issues and concerns associated with its use, and the importance of comprehensive policy creation when implementing technology in a law enforcement environment.

Although there is a wide range of literature covering body-worn cameras, only a small portion of the published literature is based on scientific evaluations. Therefore, this review examines information from a diverse spectrum of sources—journal articles, news articles, scientific studies, congressional bills, and survey results. The first section of the literature review examines research on the stakeholders' expectations of body-worn cameras. The second section discusses research concerning the limitations of the technology in a law enforcement environment. The third section covers studies on the effectiveness of body-worn cameras. Finally, the fourth section identifies the major concerns surrounding the implementation of body-worn camera programs and their usage.

A. EXPECTATIONS

Many advocates of body-worn cameras expect the technology to have a positive effect on officer and citizen behavior, decrease use of force by law enforcement officers, and increase trust from the community. David Harris, a law professor at the University of Pittsburg, postulates that body-worn cameras will increase police officers' adherence to department policies and the Fourth Amendment standards regarding search and seizure. To support his claim, he describes how after the installation of dashboard cameras in police vehicles, officers reported that the cameras caused them to follow department regulations more closely during interactions with the public.[35] Jay Stanley, a policy analyst with the ACLU, expects that body-worn cameras will discourage abusive acts by police officers.[36] In referring to CBP specifically, Lopez, Ma, and Breisblatt assert that adopting body-worn cameras will help repair the agency's reputation of misconduct.[37] In May 2017, Congressman Espaillat from New York introduced the ICE and CBP Body Camera Accountability Act with the stated purpose of addressing the concerns of misconduct by the organizations' officials.[38] Law enforcement officials also expect body-worn cameras to improve the behavior of citizens. According to Ready and Young, when people know they are under observation, they tend to behave more appropriately.[39]

In addition to the technology's purported role in combating police misconduct, many politicians and citizens see body-worn cameras as a way to increase the trust between the public and police officers. In 2015, as part of former President Obama's pledge to increase the trust between law enforcement and communities, the Department of Justice (DOJ) awarded over $23.2 million in grants to local departments for the purchasing of

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[35] David A. Harris, "Picture This: Body Worn Video Devices ('Head Cams') as Tools for Ensuring Fourth Amendment Compliance by Police" (research paper, University of Pittsburg School of Law, April 2010), https://www.bja.gov/bwc/pdfs/Harris-BWV.pdf.

[36] Stanley, "Police Body-Mounted Cameras."

[37] Lopez, Ma, and Breisblatt, *Body Cameras and CBP*.

[38] Official Website of Congressmember Adriano Espaillat, "ICE and CBP Body Camera Legislation."

[39] Justin T. Ready and Jacob T. N. Young, "The Impact of On-Officer Video Cameras on Police–Citizen Contacts: Findings from a Controlled Experiment in Mesa, AZ," *Journal of Experimental Criminology* 11, no. 3 (September 2015): 445–58, https://doi.org/10.1007/s11292-015-9237-8.

body-worn cameras and associated training.[40] Karson Kampfe explains that many citizens expect the audio and video data captured by body-worn cameras to provide a documented, neutral account of police activity in events that end with questionable outcomes.[41] Kampfe's assertion has been supported by media coverage following several high-profile police use-of-force incidents. After the grand jury's decision not to charge the officer involved in the 2014 fatal shooting of Michael Brown, the Brown family pleaded with the public to help ensure that every officer patroling is equipped with a body-worn camera.[42] In an article for the *New York Times*, Brent McDonald and Hillary Bachelder illustrate this same sentiment by providing a video clip from a press conference. The video shows the lawyer for Paul O'Neal's family discussing the lack of body-worn camera footage of an incident in which O'Neal was fatally shot by the police in 2016. Immediately following the lawyer's remarks, O'Neal's sister tells the audience that the family only wants the truth, implying that had the officer who fired the shot had his camera activated, the family would have the answers they wanted.[43]

Stakeholders' expectations of body-worn cameras are largely based on deterrence theory, which describes that when there is an increased chance that someone's unacceptable behavior will be observed, the person is more likely to display acceptable behavior.[44] In a 2017 article, Ariel et al. assert that any positive effect body-worn cameras have on behavior is attributed to one of the main tenets of deterrence theory—a perceived increase in the likelihood of being caught.[45] However, Valerie Wright, in a 2010 report for

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[40] DOJ, Office of Public Affairs, "$23 Million in Funding for Body Worn Camera Pilot."

[41] Kampfe, "Police-Worn Body Cameras."

[42] Connie Felix Chen, "Freeze, You're on Camera: Can Body Cameras Improve American Policing on the Streets and at the Borders?," *University of Miami Inter-American Law Review* 48, no. 3 (2016): 141, https://repository.law.miami.edu/cgi/viewcontent.cgi?article=2545&context=umialr.

[43] Hillary Bachelder and Brent McDonald, "With Rise of Body Cameras, New Tests of Transparency and Trust," *New York Times*, January 6, 2017, https://www.nytimes.com/2017/01/06/us/police-body-cameras.html.

[44] Alexandra Claudia Mateescu, Alex Rosenblat, and Danah Boyd, "Police Body-Worn Cameras" (working paper, Data & Society Research Institute, February 2015), https://www.datasociety.net/pubs/dcr/PoliceBodyWornCameras.pdf.

[45] Barak Ariel et al., "The Deterrence Spectrum: Explaining Why Police Body-Worn Cameras 'Work' or 'Backfire' in Aggressive Police–Public Encounters," *Policing: A Journal of Policy and Practice* 12, no. 1 (March 2018), https://doi.org/10.1093/police/paw051.

the Sentencing Project, states that one major drawback of deterrence theory is its reliance on the assumption that people are rational actors. In other words, for the theory to be valid, people must weigh the consequences of their actions before acting. Wright points out that this is not always the case with regard to misconduct or crime.[46] Ariel et al. acknowledge Wright's position but suggest that non-rational actors are the exception rather than the rule.[47]

The literature indicates that stakeholders from virtually every side of the issue have high expectations of body-worn camera technology. Those expectations range from the increased professional conduct of police officers to a calming effect on police–citizen encounters for all involved parties. However, the assumption that body-worn cameras are effective is based on the belief that people always act rationally.

B. EFFECTIVENESS

Whether body-worn cameras meet the expectations of the various stakeholders has been the subject of several empirical studies and anecdotal surveys. The following paragraphs explore the most significant research on the effectiveness of body-worn cameras. Within each topical area, this chapter presents the research chronologically to mirror the trajectory of the technology's acceptance by the law enforcement community.

1. Use of Force and Complaints

In 2014, two seminal reports on body-worn camera technology were published—*Implementing a Body-Worn Camera Program* by Miller and Toliver of the Police Executive Research Forum (PERF), in collaboration with the DOJ's Community Oriented Policing Services office, and *Police Officer Body-Worn Cameras* by Michael White for the Office of Justice Programs (OJP). PERF is an independent, nonprofit research organization that identifies law enforcement best practices in areas such as police use-of-force reduction, community and risk-based policing, the use of technology in law enforcement, and police

[46] Valerie Wright, *Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment* (Washington, DC: Sentencing Project, November 2010), http://www.sentencingproject.org/wp-content/uploads/2016/01/Deterrence-in-Criminal-Justice.pdf.

[47] Ariel et al., "The Deterrence Spectrum."

strategy evaluation.[48] The organization is funded by federal grants, contracts, and membership dues.[49] In other words, PERF depends on government funding and support from the law enforcement community to subsidize its research. At the time these reports were being written, the federal government, particularly the DOJ, and law enforcement agencies in general were coming under ever-increasing pressure to address police use-of-force incidents and increase officer accountability through the use of body-worn cameras.[50] PERF's and the OJP's reports became the go-to documents for agencies considering the implementation of body-worn cameras. These publications—which consolidated the majority of research findings on body-worn cameras conducted in the United States up to 2014—listed reductions in use-of-force incidents and complaints as major benefits of body-worn camera implementation.[51]

Both PERF and OJP reports relied heavily on the 2012 Rialto Police Department (RPD) study conducted by Ariel, Farrar, and Sutherland as evidence of body-worn camera effectiveness at reducing the number of police use-of-force incidents and citizen complaints.[52] The RPD study was a randomized controlled trial (RCT), meaning researchers randomly selected and assigned officers to one of two groups: the experimental group equipped with body-worn cameras or the control group not equipped. At the end of the 12-month research period, the researchers compared the number of use-of-force incidents by the experimental group as well as complaints against those officers to

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[48] "About PERF," Police Executive Research Forum, accessed October 25, 2017, http://www.policeforum.org/about-us.

[49] "Membership Eligibility," Police Executive Research Forum, accessed October 30, 2017, http://www.policeforum.org/membership-eligibility; and "Police Executive Research Forum," MacArthur Foundation, accessed October 13, 2018, https://www.macfound.org/grantees/1528/.

[50] Kampfe, "Police-Worn Body Cameras."

[51] Lindsay Miller and Jessica Toliver, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* (Washington, DC: Community Oriented Policing Services, 2014), http://ric-zai-inc.com/Publications/cops-p296-pub.pdf; and Michael D. White, *Police Officer Body-Worn Camera: Assessing the Evidence* (Washington, DC: Office of Justice Programs, 2014), https://ric-zai-inc.com/Publications/cops-p289-pub.pdf.

[52] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

equivalent data collected from the control group.[53] As observed by Ariel, Farrar, and Sutherland, the RPD experienced a 60 percent reduction in the number of use-of-force incidents by its officers over the one-year period that cameras were deployed.[54] Miller and Toliver as well as White also acknowledge this finding.[55] Furthermore, White notes that when officers were not equipped with the cameras, they were twice as likely to have encounters resulting in the use of force. A review of use-of-force incidents during the study revealed that the likelihood of officers using force without being physically threatened increased when the officer was not wearing a body-worn camera. In comparison, all use of force by officers with cameras began with a physical threat from a suspect.[56] During the study, citizen complaints against RPD officers fell 88 percent from those of the previous year.[57]

While the results of the RPD study—hailed by many as the first scientifically rigorous study of the effect of body-worn cameras—were promising, the study was not without its limitations. The main limiting factors of the Rialto study were its lack of an independent evaluation and its sample size.[58] According to Farrar, the RPD is not a large department; at the time of the study, it consisted of 54 uniformed patrol officers with approximately 10 officers per shift.[59] In order to leverage a significant sample size, the study used randomized shifts. The result was that officers participated in both the experimental group and the control group. Ariel, Farrar, and Sutherland concede that exposing the subjects to treatment and control conditions has the potential to introduce a

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[53] Barak Ariel, William A. Farrar, and Alex Sutherland, "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints against the Police: A Randomized Controlled Trial," *Journal of Quantitative Criminology* 31, no. 3 (2015): 509–535.

[54] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[55] Miller and Toliver, *Implementing a Body-Worn Camera Program*; and White, *Assessing the Evidence*.

[56] White, *Assessing the Evidence*.

[57] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[58] White, *Assessing the Evidence*.

[59] Tony Farrar, "The Rialto Police Department's Body-Worn Video Camera Experiment: Operation 'Candid Camera'" (presentation, Jerry Lee Symposium, Washington, DC, April 29, 2013), https://dokumen.tips/documents/the-rialto-police-departments-body-worn-video-rialto-police-departments.html.

bias.[60] In other words, exposing an officer to both sets of conditions increases the difficulty of determining the causality of any observed behavior. This limitation has been acknowledged by subsequent studies as well.[61]

The report by Miller and Toliver provides results from a 2012 Mesa Police Department (MPD) study designed to evaluate body-worn camera use for its officers. During the first eight months of the study, which was conducted over a period of approximately 12 months, officers equipped with body-worn cameras experienced fewer complaints than did their colleagues without cameras. This study divided complaints into two categories: general and use-of-force specific. According to the results, the number of complaints in both categories fell by approximately 40 percent and 75 percent, respectively.[62] Similar to the RPD study, the MPD research was also limited. The study was based on a quasi-experimental design, as opposed to being an RCT.[63] In other words, the control group and experimental groups consisted of officers who were not randomly selected. According to the Center for Innovation in Research and Teaching, this research design produces less definitive conclusions regarding causality due to the lack of a randomized selection process.[64] In the MPD study, half of the officers in the experimental group were volunteers, and the other half were required to participate. As with the RPD research, the size of the study and the lack of an independent evaluation were also limiting factors. The study consisted of only 100 officers equally divided between the experimental and control groups.[65]

Braga et al. recently published findings of their yearlong body-worn camera RCT for the Las Vegas Metropolitan Police Department (LVMPD) in 2015. Similar to the RPD and MPD studies, the sample size was a limiting factor of the study, and the findings echoed

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[60] Ariel, Farrar, and Sutherland, "The Effect of Police Body-Worn Cameras."

[61] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

[62] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[63] Ready and Young, "Findings from a Controlled Experiment in Mesa, AZ."

[64] "Benefits and Limitations of Quasi-Experimental Research," Center for Innovation in Research and Teaching, accessed October 23, 2017, https://cirt.gcu.edu/research/developmentresources/research_ready/quasiexperimental/benefits_limits.

[65] Ready and Young, "Findings from a Controlled Experiment in Mesa, AZ."

the results seen in Rialto and Mesa. The LVMPD realized a 14 percent reduction in complaints against officers and a 12.5 percent drop in the number of officer use-of-force incidents.[66]

While the findings consolidated in the reports by Miller and Toliver, White, and Braga et al. appear to support that body-worn cameras have a positive effect on police use of force and complaints against officers, new research has revealed contrary findings. An international study conducted by RAND Europe in partnership with the University of Cambridge in 2016 produced findings that seem to contradict those of the earlier studies cited in Miller and Toliver's and White's reports. In the RAND study—which intended to replicate the earlier RPD research on the effects of body-worn cameras on police use of force—Ariel et al. observe that body-worn cameras produce no noticeable effect on law enforcement use-of-force incidents.[67] It is important to note that these are the overall findings of the study. In other words, the study recognizes contradicting results. Individual examinations show that while some jurisdictions experience a decline in the number of use-of-force incidents by officers wearing body-worn cameras, others experience an increase. However, the aggregated findings contradict the assertion that the presence of a body-worn camera leads to a decrease in the use of force.

As in the RPD study, Ariel et al. used the RCT methodology. The study consisted of 10 separate RCTs in which officer discretion on camera activation was tightly controlled, and a standard definition of the term *use of force* was applied. The RCTs were conducted in eight different law enforcement agencies and six different jurisdictions throughout the United States and the United Kingdom and consisted of 2,122 officers randomly divided into experimental and control groups.[68] The broader scope of this study may explain why the results differed from those cited by the aforementioned studies. Ariel et al. observed another interesting finding: assaults against officers wearing body-worn

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[66] Braga et al., *New Findings from a Randomized Controlled Trial*.

[67] Barak Ariel et al., "Wearing Body Cameras Increases Assaults against Officers and Does Not Reduce Police Use of Force: Results from a Global Multi-Site Experiment," *European Journal of Criminology* 13, no. 6 (2016): 744–755.

[68] Ariel et al.

cameras were more frequent than assaults against officers not wearing them.[69] Similar to the increased use-of-force finding, this was an aggregate result. This phenomenon might also be attributed to the broader scope of the study. However, in updated results released the same year, Ariel et al. indicate that although officers received strict guidance for activating the body-worn cameras, some elected to exercise more discretion than others. This follow-on analysis shows that when officers adhere more closely to the instructed protocol of activating the camera at the beginning of the incident, along with announcing the camera's activation, officer use of force decreases by approximately 37 percent. However, use of force increases by approximately 71 percent vis-à-vis the control group when officers use more discretion.[70]

The most recent study, as of the date of this writing, challenges the findings of Miller and Toliver, White, and Braga et al. In October 2017, Yokum, Ravishankar, and Coppock released the results from the largest body-worn camera trial to date. The study, conducted for the Metropolitan Police Department of the District of Columbia (MPDC), was designed to estimate the average effects of body-worn cameras in four areas: officer use of force, complaints against officers, police activity, and outcomes of judicial proceedings. Yokum, Ravishankar, and Coppock found that body-worn cameras had no statistically significant effect on the frequency of use of force by MPDC officers or the number of complaints against them.[71]

This study was an independently evaluated RCT conducted over approximately 18 months. The trial's participants included 2,224 MPDC officers, making this one of the largest randomized evaluations of the technology to date. The researchers assigned 46 percent of the officers to the control group and the remaining 56 percent to the experimental group.[72] The study used a block randomized assignment with matched pairings of officers

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[69] Ariel et al.

[70] Barak Ariel et al., "Increases in Police Use of Force in the Presence of Body-Worn Cameras Are Driven by Officer Discretion: A Protocol-Based Subgroup Analysis of Ten Randomized Experiments," *Journal of Experimental Criminology* 12, no. 3 (September 2016): 453–63, https://doi.org/10.1007/s11292-016-9261-3.

[71] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

[72] Yokum, Ravishankar, and Coppock.

to ensure consistency between the two groups. Officers' discretion on activation was also extremely limited. According to a general department order, officers were required to activate their body-worn cameras as soon as they received communication to respond to a call for service or at the outset of any police action self-initiated by the officer. To further accurately measure the effects of the body-worn cameras, Yokum, Ravishankar, and Coppock designed the research study with two activation compliance measures. The results showed a policy adherence rate of 96 percent. In order to generate an accurate assessment, Yokum, Ravishankar, and Coppock employed pre-treatment and post-treatment statistical analysis, which further supported their findings.[73] However, the study was not without its limiting factors. Yokum, Ravishankar, and Coppock could not rule out what they deemed to be possible spillover effects. In other words, an officer in the control group might have been indirectly influenced by the proximity of another officer assigned to the experimental group. Another potential limiting factor acknowledged by researchers was the possibility that officers had reported the use of force that did not meet the threshold of reportable use of force.[74]

In sum, the literature concerning the effectiveness of body-worn cameras at reducing the frequency of use of force by law enforcement and complaints against officers identifies two different sets of results. While some studies indicate that the technology achieves its intended purpose, other studies indicate that body-worn cameras have no positive effects on the use of force or complaints against officers—but may have adverse effects.

2. Transparency and Officer Accountability

Miller and Toliver cite the possibility of an increase in department transparency and officer accountability as the most crucial consideration of law enforcement officials who implement body-worn cameras in their departments and of the politicians and citizenry who call for the use of the technology.[75] Kamfe points out that many believe the

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[73] Yokum, Ravishankar, and Coppock.

[74] Yokum, Ravishankar, and Coppock.

[75] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

video and audio data captured by body-worn cameras have the ability to provide a documented, neutral account of police activity.[76] According to Miller and Toliver's report, many law enforcement officials whose agencies have used body-worn cameras report an increase in their respective departments' transparency and accountability. These police executives claim that the use of body-worn cameras has caused their officers to conduct themselves more professionally—not to mention provided video records of police–citizen encounters—thus increasing the transparency of their respective departments and making their officers more accountable.[77] The effect of body-worn cameras on department transparency and officer accountability, as reported by Miller and Toliver, is based solely on anecdotal evidence as no empirical studies have addressed these topics to date. White points out there has been insufficient research to suggest that the technology increases an agency's transparency.[78] According to Miller and Toliver, law enforcement officials surveyed by PERF claimed that footage from body-worn cameras provided them the ability to correct larger structural and performance problems within their departments. Over 90 percent of the agencies that responded to Miller and Toliver's survey reported using video obtained by body-worn cameras to assist department leadership in resolving administrative issues.[79] For example, departments have used body-worn cameras to address misconduct allegations by either confirming the alleged misconduct or exonerating the accused officer.[80]

The literature reveals a lack of empirical studies that specifically address an increase in agency transparency and officer accountability attributed to body-worn camera usage. However, anecdotal evidence collected by Miller and Toliver shows that some police executives believe that the technology contributes positively in both areas.

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[76] Kampfe, "Police-Worn Body Cameras."

[77] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[78] White, *Assessing the Evidence*.

[79] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[80] Miller and Toliver.

3. Evidence and Judicial Results

Another area in which Miller and Toliver cite the usefulness of body-worn cameras is evidence documentation and presentation.[81] White's report concurs; although studies in the United States have not sufficiently examined this potential benefit of body-worn cameras, research from the United Kingdom supports this claim.[82] A United Kingdom report by Goodall explains that the Plymouth Head Camera Project has noted the use of body-worn cameras aid officers in documenting violent crime evidence. The results found that when body-worn cameras were used during an investigation, the incidents were less likely to proceed to trial and more likely to end with a guilty plea.[83] Specifically, cases involving body-worn cameras in Renfrewshire, Scotland, were 70 to 80 percent less likely to go to trial.[84]

The Plymouth Project involved 50 body-worn cameras deployed for a five-month period. Two of the stated goals of the project were to reduce the challenges to officer evidence entered into the courts and increase the number of early guilty pleas.[85] This study, like the early studies referenced by Miller and Toliver, was limited by its size. The results of the project may also have been influenced by a confirmation bias given its relatively short duration and its initially stated goals. However, there is anecdotal support in the United States for the results observed by the Plymouth Project. Mary Fan describes how attorneys have used the technology to establish the credibility status of both officers and defendants, overcome issues concerning faulty perceptions, and—in cases where the defendant refuses to testify—provide jurors with an objective account of the events.[86] In contrast to these observations, Yokum, Ravishankar, and Coppock found no statistically

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[81] Miller and Toliver.

[82] White, *Assessing the Evidence*.

[83] Martin Goodall, *Guidance for the Police Use of Body-Worn Video Devices* (London: Police and Crime Standards Directorate, July 2007), http://library.college.police.uk/docs/homeoffice/guidance-body-worn-devices.pdf.

[84] Goodall.

[85] Goodall.

[86] Mary D. Fan, "Justice Visualized: Courts and the Body Camera Revolution," *University of California at Davis Law Review* 50, no. 3 (February 2017): 897, https://lawreview.law.ucdavis.edu/issues/50/3/Articles/50-3_Fan.pdf.

significant benefit of body-worn cameras in judicial outcomes. Their research measured the effects of the technology on judicial outcomes, examining data that compared arrest charges against suspects to the acceptance of those cases for prosecution by the U.S. Attorney's Office.[87] This portion of Yokum, Ravishankar, and Coppock's study was limited by data availability as the researchers had no access to the court outcomes of any charges that changed during the judicial process.[88] Marc Blitz adds to the debate about the evidentiary value of body-worn cameras. He states that although they do not provide an impartial view of reality, they do provide visual evidence to aid fact-finders. According to Blitz, this is often better than the recollection of witnesses, especially when significant time has passed between the event and the testimony.[89] Although Blitz's comments echo a sentiment shared by many, they are not based on any empirical evidence.

In summary, the literature on the effectiveness of body-worn cameras in judicial proceedings shows mixed results. The empirical evidence produced by Yokum, Ravishankar, and Coppock refutes the findings from the studies in the United Kingdom and the anecdotal evidence by some in the United States. The contrasting findings show that the technology's efficacy in evidence documentation and judicial proceedings is questionable.

C. CONSIDERATIONS

Thus far, this chapter has focused on the expectations associated with body-worn cameras and the technology's ability to meet those expectations. However, research indicates that there are several other factors to consider when discussing body-worn cameras. The following sections examine these factors.

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[87] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

[88] Yokum, Ravishankar, and Coppock.

[89] Marc Jonathan Blitz, "Police Body-Worn Cameras: Evidentiary Benefits and Privacy Threats" (issue brief, American Constitution Society for Law and Policy, May 2015), https://www.acslaw.org/wp-content/uploads/2018/04/Blitz_-_On-Body_Cameras_-_Issue_Brief.pdf.

1. Technological Limitations

Dr. Bill Lewinski, executive director of the Force Science Institute, cautions that after a use-of-force incident, a review of body-worn camera footage may not provide a complete and accurate account of the event.[90] As support for his assertion, Lewinski says that body-worn cameras cannot record such things as tactile indicators of danger that an officer may feel.[91] He further explains that body-worn cameras may capture things that the officer had no way of perceiving at the time force was applied—due to the quickly evolving nature of use-of-force incidents and limits of human perception under stress. According to Lewinski, this limitation creates the possibility of the video's reviewers judging the application of force in hindsight, a practice prohibited by U.S. Supreme Court standards.[92]

Kay Chopard Cohen from the National District Attorneys Association agrees that the technology has its limitations. In a 2015 article for DOJ's Bureau of Justice Assistance, she concedes that body-worn cameras capture only things within their field of view. She explains that the devices do not have peripheral vision and are limited by their placement on an officer's uniform.[93] In a 2017 article for Police One, Dave Blake, an expert witness and consultant on the use of force and human performance, adds that what the camera sees can differ from what the officer sees.[94] In an interview for McDonald and Bachelder's *New York Times* article, Harlan Yu states that another major limitation of body-worn cameras is that they provide only one point of view.[95] As an example of the single perspective issue, Stanley cites a 2014 excessive force incident from Florida whose body-worn camera

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[90] "Force Science News #145: Do Head Cameras Always See What You See in a Force Encounter?," Force Science Institute, March 12, 2010, http://www.forcescience.org/fsnews/145.html.

[91] "Force Science News #265: 10 Limitations of Body Cams You Need to Know for Your Protection," Force Science Institute, accessed August 2, 2017, http://www.forcescience.org/fsnews/265.html.

[92] Force Science Institute, "10 Limitations of Body Cams."

[93] Kay Chopard Cohen, "The Impact of Body-Worn Cameras on a Prosecutor," National Training and Technical Assistance Center, September 10, 2015, https://www.bjatraining.org/media/blog/impact-body-worn-cameras-prosecutor.

[94] David Blake, "2 Under-Discussed Issues with Body-Worn Cameras," Police One, September 21, 2017, https://www.policeone.com/policing-in-the-video-age/articles/421462006-2-under-discussed-issues-with-body-worn-cameras/.

[95] Bachelder and McDonald, "New Tests of Transparency and Trust."

footage documented no excessive force. However, video captured by a nearby surveillance camera showed five officers kicking and punching a non-resistant suspect.[96]

In an article for the *University of Miami Inter-American Law Review*, Connie Felix Chen raises the issue of image distortion. According to Chen, this phenomenon is a major limitation of body-worn cameras.[97] In support of Chen's assertion, Professor Seth Stoughton, a veteran law enforcement officer and body-worn camera researcher from the University of South Carolina's School of Law, says images of objects and people captured by body-worn cameras often appear larger than they actually are.[98] In other words, the images become distorted due to the proximity of the object or person to the camera. Stoughton states that the problem of image distortion is magnified when the camera is moving, as is the typical case with body-worn cameras.[99] He also agrees with the claims made by Stanley and Yu concerning the single-point-of-view limitation of body-worn cameras. Stoughton argues that under certain conditions, footage obtained from body-worn cameras may even be misleading. To illustrate this point, Stoughton often uses videos of scenarios captured by multiple cameras placed at varying distances. His research shows that the conclusions drawn by the viewers of the videos differ depending on which camera captured the action.[100]

The literature on the technological limitations of body-worn cameras clearly shows that this technology, like most technology, is not without its shortcomings. As Cohen suggests, all interested parties must recognize that body-worn camera technology has limitations.[101]

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[96] Bachelder and McDonald.

[97] Chen, "Freeze, You're on Camera."

[98] Bill Nemitz, "Police Body Cameras Are Useful Tools, but They Can Distort the Truth," *Press Herald* (blog), February 26, 2017, http://www.pressherald.com/2017/02/26/police-body-cameras-are-useful-tools-but-they-can-distort-the-truth/.

[99] Chen, "Freeze, You're on Camera."

[100] Nemitz, "Police Body Cameras Are Useful Tools"; and Chen, "Freeze, You're on Camera."

[101] Cohen, "The Impact of Body-Worn Cameras on a Prosecutor."

2. Privacy Concerns

One of the more significant issues regarding body-worn cameras, for both proponents and opponents of the technology and its operational use, is the attendant privacy concerns. According to Miller and Toliver, the debates surrounding privacy concerns associated with body-worn camera usage primarily involve when officers should turn the cameras on and how long the recorded footage should be retained.[102] Miller and Toliver report that many of the privacy concerns associated with the technology are novel. Therefore, legislation and public policies have not addressed them before. For instance, body-worn cameras are mobile and allow officers to record in locations traditionally regarded as private as well as potentially capture sensitive situations on camera. These concerns are not associated with fixed surveillance cameras that are generally located in public venues.[103] White also concludes that there has not been sufficient research conducted on the impact of body-worn cameras on individual privacy.[104] Miller and Toliver state that due to the lack of current legislation regarding the use of the technology and individual privacy rights, law enforcement agencies must carefully consider the potential negative impact that body-worn cameras may have in this area.[105] White furthers the privacy discussion by highlighting the fact that federal law prohibits the warrantless video recording of citizens in places where they have an expectation of privacy. White, citing a National Institute of Justice (NIJ) guide, also points out that many states require consent from both parties before private conversations can be lawfully recorded. For example, White refers to advice from the Seattle Law Department that before implementing a body-worn camera program, the Seattle Police Department should pursue a legislative exception to the Washington law requiring consent from all parties recorded in a conversation.[106] Miller and Toliver, White, and Stanley all acknowledge the privacy concerns associated with witnesses to or victims of crimes, as well as bystanders who may be captured on

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[102] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[103] Miller and Toliver.

[104] White, *Assessing the Evidence*.

[105] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[106] White, *Assessing the Evidence*.

video.[107] Stanley, writing on behalf of the ACLU, reversed his earlier position in this area. In 2013, Stanley had advocated for body-worn cameras being active during all officer interactions with the public.[108] In 2015, he updated his report, stating that an all-public encounter policy raises privacy issues, specifically in states where laws do not protect the privacy of routine law enforcement video recordings.[109] In addition to the privacy concerns associated with members of the public, Miller and Toliver indicate that when it comes to body-worn cameras, officers also have concerns about increased scrutiny from their supervisors.[110] Interviews of police executives reveal the worry among officers about supervisors periodically reviewing video footage to monitor performance, potentially leading to disciplinary action.[111] Miller and Toliver stress that departments must strive to achieve a balance between privacy concerns and the potential benefits of body-worn cameras. To achieve this balance, they suggest policies that address camera activation, data retention periods, data ownership, access to data, and data release.[112] White also posits that the public's privacy concerns surrounding the technology emphasize the need for comprehensive policy development. He recommends that officers make efforts to avoid recording people who are not part of the specific event or items that have no evidentiary value.[113] Stanley concurs with Miller and Toliver as well as White regarding the need for stringent policies to balance transparency and privacy.[114]

As the literature shows, the implication of body-worn cameras on individual privacy is a complex topic. While state and federal laws govern some privacy aspects of body-worn camera usage, agencies still need to create their own comprehensive policies.

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[107] White, *Assessing the Evidence*; Miller and Toliver, *Implementing a Body-Worn Camera Program*; and Stanley, "Police Body-Mounted Cameras."

[108] Stanley, "Police Body-Mounted Cameras."

[109] Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All," version 2.0 (working paper, American Civil Liberties Union, March 2015), https://www.aclu.org/other/police-body-mounted-cameras-right-policies-place-win-all.

[110] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[111] Miller and Toliver.

[112] Miller and Toliver.

[113] White, *Assessing the Evidence*.

[114] Stanley, "Police Body-Mounted Cameras," version 2.0.

3. Community Impact

Literature examining the impact of body-worn cameras on communities is limited to anecdotal data collected through interviews or surveys. Miller and Toliver state the importance of members of the community being willing to provide information about crimes in their neighborhoods and alert police officers to potential problems. According to their report, some police executives have experienced a decrease in the willingness of the public to provide information to their officers while others have experienced no change. Miller and Toliver also report that some jurisdictions claim better community relations since deploying body-worn cameras due to the perception that the departments are demonstrating a desire to increase transparency.[115] Miller and Toliver's work suggests that early community engagement and comprehensive policy regarding camera activation may mitigate community concerns.[116] Stanley echoes the call for a stringent policy framework to mitigate community impact.[117]

There is a lack of empirical studies examining the impact of body-worn cameras on the community. However, the anecdotal evidence gathered from departments that responded to Miller and Toliver's survey reveals mixed positive and negative findings. It further suggests the need for thoughtful policy development to lessen the technology's impact on community relations.

4. Financial and Logistical Considerations

The aforementioned reports indicate the significant financial cost of implementing a body-worn camera program. Whereas the initial purchase of the cameras themselves may be burdensome to some agencies, the majority of the expenses come from the program's maintenance.[118] According to Miller and Toliver, one department reportedly spent $67,500 for the initial purchase of 50 body-worn cameras while two years of cloud-based data

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[115] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[116] Miller and Toliver.

[117] Stanley, "Police Body-Mounted Cameras," version 2.0.

[118] Miller and Toliver, *Implementing a Body-Worn Camera Program*; and White, *Assessing the Evidence*.

storage was projected to cost the department approximately $111,000.[119] White adds that management of the large volume of data is one of the most critical logistical issues departments face in terms of cost and staffing.[120] The NIJ states that in addition to the monetary cost, data storage and management cost agencies numerous man-hours.[121] Miller and Toliver's report concurs with the NIJ. In addition to the cost associated with the initial device purchase and data storage, departments have to invest in maintenance of the cameras along with their supporting devices and continuous training as well as increase staffing levels to manage the program, review and redact video footage, categorize the videos, and adjudicate requests for the release of the data.[122]

While the associated costs of the body-worn cameras can be significant, some argue that the advantages of the technology may actually offset the costs. The results of the RCT for LVMPD by Braga et al. estimate that due to the reduction in complaints and the time and resources required to investigate complaints, body-worn cameras should actually save the department more money than they cost.[123] However, a 2018 study conducted by PERF reached a different conclusion about the cost-savings potential of body-worn cameras. PERF studied the cost-savings potential of the technology by examining litigation expenses associated with civil lawsuits filed against police departments in three jurisdictions and the potential of body-worn cameras to reduce the number of those lawsuits. The report concluded that due to the associated costs of maintaining a body-worn program—even if the technology eliminated all litigation costs—the money saved would not offset the technology's costs.[124]

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[119] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[120] White, *Assessing the Evidence*.

[121] National Institute of Justice, Sensor, Surveillance, and Biometric Technologies, Center of Excellence, *A Primer on Body-Worn Cameras for Law Enforcement* (Washington, DC: National Institute of Justice, September 2012), https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf.

[122] Miller and Toliver, *Implementing a Body-Worn Camera Program*.

[123] Anthony A. Braga et al., "The Las Vegas Body-Worn Camera Experiment: Research Summary," Research in Brief Series (Las Vegas: Center for Crime and Justice Policy, November 2017), https://www.cna.org/cna_files/pdf/LV-BWC-RIB-2017.pdf.

[124] Police Executive Research Forum, *Cost and Benefits*.

In sum, the literature shows that the financial and logistical costs of body-worn cameras are considerable, and it is questionable whether the purported benefits of the technology have the potential to offset those costs.

5. Policy Creation and Technology Implementation

The Cato Institute's Matthew Feeney postulates that body-worn cameras are only as effective as the policies that govern their use. In his 2015 report, Feeney writes that despite the law enforcement community's positive response to public and political pressure to adopt the technology, many agencies across the nation have not developed adequate body-worn camera policies to govern the technology. Feeney warns against rushing body-worn camera policy development. He posits that without the proper policies, the technology will not be received as a valuable part of law enforcement reform but rather another perplexing police tool with serious privacy implications.[125] Feeney proposes that body-worn camera policies be balanced and comprehensive. They have to hold officers accountable for noncompliance but also ensure that activation requirements do not jeopardize officer safety. The policies need to enhance the department's transparency while preserving individual rights to privacy. Feeney also states that body-worn camera policies must include guidance about the storage and redaction requirements for video footage. However, he cautions against taking a national policy approach. Feeney contends that the diversity of American law enforcement agencies necessitates that policy creation be done at the appropriate level—state, local, or federal—depending on the agency. He supports the federal government creating body-worn camera policies for federal law enforcement agencies but not dictating state and local department policies, even though federal policies will need to address the same types of issues.[126]

In a 2015 study for George Mason University and PERF, Koper et al. caution that implementing new technology does not always result in the desired benefits; in some

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[125] Matthew Feeney, "Watching the Watchmen: Best Practices for Police Body Cameras," Cato Institute, October 27, 2015, https://www.cato.org/publications/policy-analysis/watching-watchmen-best-practices-police-body-cameras.

[126] Feeney.

instances, it may result in unintended negative consequences for agencies.[127] The study researched the impact of a variety of police technologies—records management systems, license plate readers, dashboard cameras, as well as forensics and analytic technologies—across four large departments. Each department had a varying degree of experience with the technologies studied. The study's methodology consisted of surveys, focus groups, interviews, and field observations for all locations; however, only two locations actually conducted field evaluations of the specific technology. Koper et al. measured the impact of technology on communication, productivity, officer effectiveness, officer job satisfaction, and cooperation. The main limitation of the study was that it relied on officer perceptions of the use of the technology to measure its effectiveness. Nevertheless, the findings of Koper et al. show that implementing technology in a law enforcement agency can have innumerable effects, not all of which are positive. Interestingly, the study revealed that the impact of technology varies from department to department as well as within a single department.[128] Koper et al. posit that law enforcement executives must understand that implementing technology is a continuous process that may not produce immediate results.

In sum, an agency must have a strategic implementation plan that focuses on the specific ways in which the technology should be deployed and adequate infrastructure to support it.[129] Furthermore, agency leadership should understand that the effects of implementing new technology may not be evident right away.

D. CONCLUSION

In conclusion, a review of body-worn camera literature reveals mixed results among PERF's and the OJP's reports and more recent empirical studies on the technology's efficacy. In some jurisdictions, body-worn cameras have reduced the frequency of police use of force. However, other departments have found no significant change in use-of-force

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[127] Christopher S. Koper et al., *Realizing the Potential of Technology in Policing* (Washington, DC: George Mason University, December 2015), http://cebcp.org/wp-content/technology/ImpactTechnology FinalReport.pdf.

[128] Koper et al.

[129] Koper et al.

incidents. This mixed trend extends to the number of complaints against officers—although complaints may be resolved more quickly when body-worn cameras are involved. The literature indicates that body-worn cameras may have the potential for increasing police transparency and accountability; however, there is a lack of empirical research to indicate that the potential actually comes to fruition. Research supports PERF's and the OJP's conclusions on the evidence documentation value added by body-worn cameras in certain instances.

Research has also uncovered a number of issues that agencies need to consider when deciding whether to implement body-worn camera technology. Agencies must fully understand the impact of the technology on privacy. Departments must create comprehensive policies to address issues such as citizen and officer rights to privacy as well as the intricacies of disclosure laws. The impact of body-worn cameras on the community and the community's willingness to cooperate with departments also deserve attention. Research has revealed that the primary concern for agencies is the substantial recurring financial commitment required by body-worn cameras; for an agency the size of CBP, the commitment is immense.

The research did not reveal any literature that examined the effectiveness of body-worn cameras in the broader context of police reform or the efficacy of the technology beyond the RCTs. The next two chapters fill this knowledge gap. They present the reform actions taken by the LVMPD and the MPDC to address the following areas of concern: accountability of officers and oversight of officer use of force, use-of-force policies and training, and measures to increase transparency and build community trust. The chapters examine the impact these actions had in the areas of concern. They also discuss the results of the departments' body-worn camera RCTs and the efficacy of the technology's subsequent implementation in each area.

III. CASE STUDY: LAS VEGAS METROPOLITAN POLICE DEPARTMENT

> "You can have the best policies in the world, but if your institutional culture doesn't support them, they won't work."
>
> —Doug Gillespie, former Las Vegas sheriff[130]

A. INTRODUCTION

Over the past several years, the Las Vegas Metropolitan Police Department (LVMPD) has become a paragon of police reform. The department has gone from one that was plagued by questionable use-of-force incidents and accountability issues to an example of responsible policing to which many other large police departments across the nation have turned.[131] The DOJ's Community Oriented Policing Services Office (COPS) recently reported that LVMPD had made meaningful changes in several key areas: training, community engagement, and increased transparency.[132] According to another COPS report, "The department's introspection and genuine desire to make significant improvements and serve as a model for other departments draws [*sic*] praise from the assessors. The department's commitment has produced impressive results."[133] As part of the LVMPD's reform initiatives, the department collaborated with the Center for Naval Analyses to conduct a body-worn camera RCT from 2014 to 2015. According to the recently published results, body-worn cameras were effective at reducing complaints against officers and officer use of force in Las Vegas. Furthermore, the study revealed that

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[130] PolicyLink and Advancement Project, *Values, Leadership, and Sustainability: Institutionalizing Community-Centered Policing* (Washington, DC: PolicyLink, April 2015), http://www.policylink.org/sites/default/files/Leadership_in_Policing_04282015_rev.pdf.

[131] Daniel Hernandez, "How One of the Deadliest Police Forces in America Stopped Shooting People," *Quartz* (blog), December 4, 2015, https://qz.com/565011/how-one-of-the-largest-police-forces-in-america-stopped-shooting-people/.

[132] Megan Collins et al., *Assessment of the Collaborative Reform Initiative in the Las Vegas Metropolitan Police Department: A Catalyst for Change* (Boston: Crime and Justice Institute, 2016), https://ric-zai-inc.com/Publications/cops-w0834-pub.pdf.

[133] George Fachner and Steven Carter, *Collaborative Reform Model: Final Assessment Report of the Las Vegas Metropolitan Police Department* (Alexandria, VA: Center for Naval Analyses, May 2014), 71, https://www.lvmpd.com/en-us/Documents/LVMPD_Collab_Reform_Final_Report_v6-final.pdf.

body-worn cameras had the potential to save the department money via a reduction in the time and resources required to investigate complaints against officers.[134]

This chapter examines the LVMPD's body-worn camera experience through an interview with Daniel Zehnder, a key figure in the implementation process of the department's body-worn camera program, and analysis of open-source information from news accounts, DOJ documents, and LVMPD reports.[135] By examining the technology in the broader context of police reform, this chapter explores the efficacy of the technology in decreasing use-of-force incidents and complaints against officers as well as increasing agency transparency beyond the results of the department's RCT. The next section discusses the events that led to the LVMPD's initiation of reformative actions. The succeeding section summarizes the LVMPD's body-worn camera RCT and implementation. After examining the department's body-worn camera experience, this thesis looks at the department's other major reform initiatives. Next, the author analyzes the impact of the reformative measures, including body-worn cameras, on areas of concern such as the use of deadly and less-lethal force and complaints against officers in an effort to determine the impact of body-worn cameras in these areas.

B. BACKGROUND

Beginning around mid-2008, the LVMPD began to see an increase in officer use-of-force incidents, especially officer use of deadly force.[136] In response, Sheriff Doug Gillespie began to direct changes to the department's use-of-force training and policies.[137] Unfortunately, training and policy changes take time to yield results, and time was not on the department's side. In mid-2010, the LVMPD had a series of highly publicized deadly shootings. In one case, officers shot and killed a mentally ill Army veteran who had

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[134] Braga et al., *New Findings from a Randomized Controlled Trial*.

[135] Daniel J. Zehnder is a retired captain from the LVMPD. As the department's body-worn camera program manager for two and a half years, he was responsible for all aspects of planning, operations, and management of the department's camera program.

[136] Daniel J. Zehnder (Las Vegas Metropolitan Police Department), personal communication, May 11, 2018. Deadly force is the degree of force that is likely to produce death or serious bodily injury.

[137] Zehnder.

barricaded himself in a car. Another case resulted in officers fatally shooting an unarmed suspect attempting to flush narcotics down the toilet while they were serving a search warrant. The suspect in this case turned out to be the wrong person.[138] These events created an immediate outcry from the community. According to Zehnder, "This was the straw that broke the camel's back."[139] By the end of 2010, the department's use of deadly force hit an all-time high of 25 officer-involved shootings. Figure 1 shows the LVMPD's use of deadly force statistics for a 10-year period.

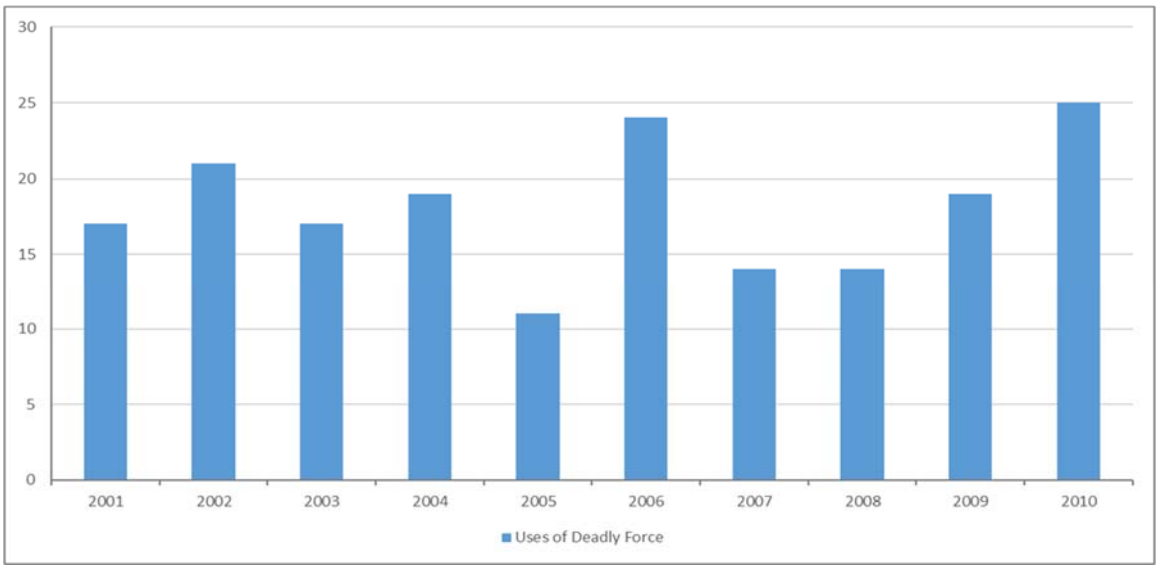

Figure 1. LVMPD Officer Use of Deadly Force[140]

As a result, the *Las Vegas Review-Journal*, a local newspaper, began conducting its own analysis of the LVMPD's use of deadly force. Published in November 2011, the newspaper's investigative series, titled "Deadly Force: When Las Vegas Police Shoot, and Kill," concluded that many of the officer-involved shootings over the previous 20 years were controversial and avoidable. The series went on to call into question the legitimacy

[138] Hernandez, "Deadliest Police Forces in America Stopped Shooting People."

[139] Zehnder, personal communication.

[140] Adapted from Office of Internal Oversight, Critical Incident Review Team, *Deadly Force Statistical Analysis 2010–2011* (Las Vegas: LVMPD, July 1, 2012), https://cops.usdoj.gov/pdf/deadly-force-statistical-analysis.pdf.

of the department's training, use-of-force practices, and internal processes of accountability. Specifically, the report claimed that over 97 percent of the cases presented to the LVMPD's Use of Force Review Board (UFRB) since 1991 had resulted in no disciplinary action.[141] Predictably, the series increased the community's concerns about the department's use of force and the accountability of its officers.[142]

Approximately two weeks after the series was released, LVMPD officers were involved in another fatal shooting. The suspect, although under the influence of prescription drugs, was another military veteran and graduate of United States Military Academy. This incident increased the external focus on the department's use-of-force practices.[143] By January 2012, and largely due to the *Las Vegas Review Journal*'s series, the LVMPD's use of deadly force had drawn the DOJ's attention.[144] Recognizing the enormity of the situation and not wanting to wait for a potential federal consent decree from the DOJ's Civil Rights Division, Sheriff Gillespie began collaborating with COPS.[145] The COPS office, through its Critical Response Technical Assistance grant, agreed to assist Sheriff Gillespie in his efforts to reduce the LVMPD's use of deadly force and restore the department's public image. Within days of the initial conversation, members of the LVMPD's executive leadership met with officials from the COPS office to discuss the LVMPD's participation in a new DOJ program called the Collaborative Reform Initiative for Technical Assistance (CRI-TA), or Collaborative Reform, and the measures the sheriff had already taken.[146] Following the discussions, Sheriff Gillespie agreed to participate, and

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[141] Lawrence Mower, Alan Maimon, and Brian Haynes, "Analysis: Many Las Vegas Police Shootings Could Have Been Avoided," *Las Vegas Review-Journal*, November 27, 2011, https://www.reviewjournal.com/uncategorized/analysis-many-las-vegas-police-shootings-could-have-been-avoided/.

[142] James K. Stewart et al., *Collaborative Reform Model: A Review of Officer-Involved Shootings in the Las Vegas Metropolitan Police Department* (Alexandria, VA: Center for Naval Analyses, October 2012), https://ric-zai-inc.com/Publications/cops-p273-pub.pdf.

[143] Zehnder, personal communication.

[144] Stewart et al., *Collaborative Reform Model*.

[145] Stewart et al., *Collaborative Reform Model*; and Zehnder, personal communication. Consent decrees are mutually binding agreements between two parties. In the case of DOJ consent decrees with police departments, they are used to impose and regulate changes in specific departments when the DOJ has determined the departments have shown a pattern of misconduct toward their citizenry.

[146] Stewart et al., *Collaborative Reform Model*.

the LVMPD became the first police department in the nation to receive assistance under the program. With the DOJ's assistance, Sheriff Gillespie hoped to create a change in the department's culture, especially regarding the use of deadly force, while increasing the safety of his officers and reducing the number of deadly force incidents.[147] According to the DOJ,

> The purpose of CRI-TA is to improve trust between agencies and the communities they serve by providing a means to organizational transformation around specific issues. It is not a short-term solution for a serious deficiency but rather a long-term strategy that first identifies issues within an agency that may affect public trust and then offers recommendations based on a comprehensive agency assessment for how to resolve those issues and enhance the relationship between the police and the community. Agency participation in this collaborative process is voluntary; however, agencies selected to participate must demonstrate a commitment to address the recommendations and undertake significant reform efforts.[148]

The Center for Naval Analyses (CNA), the technical assistance provider funded by the COPS office, conducted a six-month assessment and review of the department in 2012. This assessment resulted in 76 recommendations or acknowledgments of previously implemented reforms, including the possibility of implementing body-worn cameras.[149] For the next year and a half, the LVMPD worked closely with the CNA to implement new reforms and strengthen existing ones. By May 2014, the LVMPD had completed over 90 percent of the recommended actions. The department continued to work toward completing the remaining 9 percent, which included exploring the implementation of body-worn cameras.[150]

C. BODY-WORN CAMERAS

In January 2012, just prior to the LVMPD's participation in the Collaborative Reform process, the department began examining vehicle-mounted and body-worn

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[147] Collins et al., *Assessment of the Collaborative Reform Initiative*.

[148] Community Oriented Policing Services, "Collaborative Reform Initiative for Technical Assistance" (fact sheet, Department of Justice, June 2016), https://cops.usdoj.gov/pdf/technical_assistance.pdf.

[149] Stewart et al., *Collaborative Reform Model*.

[150] Fachner and Carter, *Final Assessment Report of the LVMPD*.

cameras. The department's review focused on the legalities and costs associated with the technologies as well as how best to implement them into its operations.[151] The LVMPD feasibility study concluded with a recommendation that the department should invest in body-worn cameras.[152] In October that year, the CNA's initial assessment echoed that recommendation.[153] Approximately one month later, the National Institute of Justice (NIJ) contacted the LVMPD, offering to assist the department in implementing its body-worn camera program if the department was willing to participate in a CNA study of the technology. The NIJ offered to match the LVMPD's purchase of the first 100 body-worn cameras. The two parties finalized the agreement in 2013.[154]

The CNA administered an RCT from February 2014 through September 2015. The trial consisted of a total of 218 volunteer officers assigned to the treatment group and 198 assigned to the control group. The results of the trial showed that among the officers assigned to wear a body-worn camera—the treatment group—there was a 16.5 percent decrease in officers who generated at least one complaint and an 11.5 percent decrease in officers involved in a use-of-force incident. In contrast, the control group—officers not equipped with body-worn cameras—experienced a 5 percent decrease in officers receiving at least one complaint and a 1 percent increase in officers involved in a use-of-force incident. The study's final report also notes the rarity of complaints against LVMPD officers and use-of-force incidents at the time. In a one-year period immediately before the RCT, more than 48 percent of the 416 participating officers had no complaints filed against them, and more than 71 percent were not involved in a use-of-force incident. Interestingly, the trial results predicted cost savings to the department—stemming from a reduction of complaints and in the time and staffing required to investigate them—of approximately $4,000 per body-worn camera user yearly.[155]

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[151] Fachner and Carter.

[152] Zehnder, personal communication; and Fachner and Carter, *Final Assessment Report of the LVMPD*.

[153] Stewart et al., *Collaborative Reform Model*; and Zehnder, personal communication.

[154] Zehnder, personal communication.

[155] Braga et al., *New Findings from a Randomized Controlled Trial*.

Initially, union issues and budgetary concerns hindered the LVMPD's full implementation of body-worn cameras. The department had previously negotiated with its officers' union to equip all those hired after July 1, 2013, with body-worn cameras. That meant that in the early stages of implementation, the LVMPD had to rely on volunteers to wear the body-worn cameras. At that time, the union had persuaded officers not to volunteer until the department offered something in return. The LVMPD overcame that obstacle by providing temporary incentive pay to officers outfitted with the technology.[156] In 2015, the LVMPD was able to start expanding its body-worn camera program, and by February 2017, the department had reached a 95 percent deployment level.[157]

D. OTHER MAJOR REFORMS

This section explores other major reform measures taken by the LVMPD prior to, during, and after the department's participation in the CRI-TA program. Although this section does not exhaustively cover every change that the department has implemented since 2010, it provides a relative context for exploring the efficacy of the LVMPD's body-worn program beyond the results of the RCT. The author presents the information categorically, as opposed to chronologically, due to the fluidity of the LVMPD's reform efforts.

1. Accountability and Oversight

In 2010, the LVMPD began fundamentally changing the way it investigated and reviewed the use of deadly force. The department created the Force Investigation Team (FIT), which is responsible for investigating all deadly force incidents. The FIT consists of specialized investigators from the department's homicide and robbery division who investigate the legality of deadly force events.[158] In addition to investigating deadly force incidents from a legal standpoint, the LVMPD formed the Critical Incident Review Team

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[156] Zehnder, personal communication.

[157] Chuck Callaway, "A Brief Overview of the Las Vegas Metropolitan Police Department" (presentation at the Assembly Committee on Corrections, Parole and Probation, Las Vegas, Nevada, February 9, 2017), https://www.leg.state.nv.us/Session/79th2017/Exhibits/Assembly/CPP/ACPP62G.pdf; and Zehnder, personal communication.

[158] Stewart et al., *Collaborative Reform Model*.

(CIRT) to review deadly force encounters from an administrative perspective. In other words, CIRT's review of deadly force encounters is an internal process that analyzes the officer's actions from a policy, procedural, training, and tactical perspective.[159] In an interview, Zehnder provided insight into how this process works after an actual deadly force incident such as an officer-involved shooting. He explained that as soon as the incident occurs, members of the FIT as well as representatives from the District Attorney's Office deploy and begin the criminal investigation aspect. Once the criminal investigation is complete, CIRT reviews the incident to determine whether the officer followed departmental procedures.[160] CIRT then presents its findings to the department's UFRB and the Tactical Review Board (TRB), which make the final determinations regarding policy and procedural adherence and, if needed, recommendations to improve policy, procedures, training, or tactics.[161]

The LVMPD's UFRB has existed since the early 1990s; however, it has evolved over time. Presently, it is part of a two-review board process, which focuses on the administrative aspects of deadly force incidents. The UFRB consists of seven voting members, four of which are civilians from within the community. The LVMPD training captain, deputy chief, and an officer peer make up the remaining members.[162] The focus of the UFRB is policy and procedural adherence. In 2012, in an effort to improve the level of executive involvement in its use-of-force oversight process, the LVMPD increased the rank requirement for the board's chairperson from deputy chief to assistant sheriff.[163] In 2013, the department expanded the UFRB's determination options from *justified*, *unjustified*, or *justified with training violations* to a more comprehensive list that considers an officer's actions leading up to the application of force. The new list includes administrative approval

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[159] Stewart et al.

[160] Zehnder, personal communication.

[161] Stewart et al., *Collaborative Reform Model*; Zehnder, personal communication; and Las Vegas Metropolitan Police Department, "Use of Deadly Force Review Process" (fact sheet, LVMPD, September 3, 2014, https://www.lvmpd.com/en-us/InternalOversightConstitutionalPolicing/Documents/OIS_Review_Flowchart_090314.pdf.

[162] LVMPD, "Use of Deadly Force Review Process."

[163] Stewart et al., "*Collaborative Reform Model*.

or disapproval, tactics and decisions, non-use-of-force policy violations, and policy of training shortcomings.[164] In 2014, the LVMPD increased citizen involvement in the department's deadly force investigatory process by implementing the practice of inviting civilian members of the UFRB to the scene of officer-involved shootings.[165]

The second review board in this process, the TRB, convenes immediately after the UFRB. The TRB is composed of five voting members from the department and four non-voting members of the community. An officer peer, a deputy chief, a training captain, a training lieutenant, and the assistant sheriff review the involved officer's police tactics to determine whether other tactical options may have prevented the necessity of using force. Although the community members on the TRB do not have voting privileges, their presence demonstrates an increased level of departmental transparency.[166]

2. Use-of-Force Policy

In 2011, the LVMPD began to make significant changes to the department's use-of-force policy. This process continues today. This section highlights the updates to the LVMPD's use-of-force policy in 2012, 2015, and 2017. In 2012, the LVMPD began explicitly stating that officers should value human life. The updated use-of-force policy contains the following statement:

> It is the policy of this department that officers hold the highest regard for the dignity and liberty of all persons, and place minimal reliance upon the use-of-force. The department respects the value of every human life and that the application of deadly force is a measure to be employed in the most extreme circumstances.[167]

The department also expanded the criteria used by the U.S. Supreme Court in *Graham v. Connor* for determining the reasonableness of an officer's use of force. The policy update included additional factors that officers must consider before using force to determine the level of force permitted. These considerations include the time the officer has to make a

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[164] Stewart et al.

[165] Fachner and Carter, *Final Assessment Report of the LVMPD*.

[166] LVMPD, "Use of Deadly Force Review Process."

[167] Stewart et al., *Collaborative Reform Model*, 28.

tactical decision, the availability of measures to de-escalate the situation, and the suspect's mental capacity. Furthermore, the department added policy language that places the responsibility on officers to assess use-of-force situations to determine which force option would bring the encounter to the safest possible conclusion for all parties. The policy evolved to contain a statement requiring officers who are witnessing the excessive use of force to intervene and prevent the excessive action—if safe to do so.[168] Less-lethal devices, such as collapsible steel batons, oleoresin capsicum spray (pepper spray), and electronic control devices (Tasers), were reclassified as intermediate force devices, and guidance on their appropriate use was added. An entirely new section devoted to de-escalation was included in the new version of the policy.[169] The department treats its use-of-force policy as a living document and updates it accordingly. In 2017, the department updated its policy related to three issues: the use of 40mm specialty impact weapons, guidance on shooting at moving vehicles, and the use of lateral vascular neck restraints.[170]

3. Use-of-Force Training

In 2011, the LVMPD embarked on a series of measures to enhance officer training. In October, the LVMPD implemented a reality-based training (RBT) program. Through classroom sessions and scenario-based training exercises, the program prepares officers to resolve dynamic situations. In 2012, the department expanded the RBT to emphasize multiple officer scenarios and supervisor responsibilities during such scenarios. This training is a semi-annual mandatory requirement for all LVMPD officers. Supervisors must complete the training quarterly. In addition to scenario-based training conducted with role players and training (non-lethal) ammunition, the LVMPD increased its use of virtual-reality decision-making training. Previously, the training was offered solely to officers

[168] Collins et al., *Assessment of the Collaborative Reform Initiative*.

[169] Collins et al.

[170] Las Vegas Metropolitan Police Department, "LVMPD Announces Updates to Use of Force Policy" (press release, LVMPD, September 21, 2017), https://www.lvmpd.com/en-us/Press%20Releases/PO%20227%2009-21-17.pdf.

during their academy training. In 2011, the training became an annual mandatory requirement for all officers.[171]

Crisis intervention training (CIT) had been a part of the LVMPD's arsenal since 2003. CIT provides officers with the necessary skills to handle encounters with mentally ill or emotionally unstable subjects.[172] The LVPD had initially provided the training to specialized teams of volunteer officers but has since made CIT a requirement for all new recruits.[173] In 2012, the department began creating a recertification process for all CIT certified officers. Originally scheduled for once every three years, the LVMPD's recertification courses are required once every two years and include training related to suicide, suicide by cop, active listening skills, and de-escalation.[174]

By mid-2012, de-escalation training had become a central theme of the LVMPD's use-of-force training. The initial CNA report states, "Officers were specifically instructed to slow down the momentum of a call, get a supervisor to the scene, and consider their force options whenever feasible. They were instructed to continually reassess the threat presented based on the time they have to make decisions and the dynamics of the citizen contact."[175] The final CNA report, completed in 2014, shows that the department has formalized its de-escalation training requirement. De-escalation training was expanded to include verbal de-escalation, techniques for slowing down situations, and an emphasis on increasing the distance between the suspect and officer. Officers are required to participate in four hours of de-escalation training annually. The department changed its evaluations of officers' actions during the RBT to evaluate whether, and how effectively, an officer used de-escalation tactics during scenarios.[176] To further aid officers in slowing down responses

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[171] Stewart et al., *Collaborative Reform Model*.

[172] Amy C. Watson and Anjali J. Fulambarker, "The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners," *Best Practices in Mental Health* 8, no. 2 (December 2012): 71, https://pdfs.semanticscholar.org/b5ad/fb0b65a8236f6149406bcf316cd167bd0be8.pdf; and Stewart et al., *Collaborative Reform Model*.

[173] Zehnder, personal communication.

[174] Fachner and Carter, *Final Assessment Report of the LVMPD*.

[175] Stewart et al., *Collaborative Reform Model*, 130.

[176] Fachner and Carter, *Final Assessment Report of the LVMPD*.

to critical situations, the LVMPD developed and implemented a protocol called Supervisor Tactics for Armed Subject Response in 2013.[177] The protocol mandates that a minimum of three officers and at least one higher-ranking officer—sergeant or above—respond to a call where a weapon is seen or verified.[178]

4. Transparency and Community Trust

The LVMPD has a long history of engaging the community and continues to enhance its efforts in this area. In 2003, the department created the Metro Multicultural Advisory Council, a diverse panel consisting of minority community members and a representative from the American Civil Liberties Union. The 30-member committee meets with the sheriff on a monthly basis to discuss community issues. This forum is beneficial to all involved parties. It provides the community, through representation, a mechanism to voice concerns directly to the sheriff. The sheriff and panel members can then work collaboratively to resolve issues and problems. The council also affords the LVMPD the opportunity to assess the effectiveness of its programs in better serving the community via citizen feedback.[179]

The LVMPD has standardized its process of publicly disseminating information after deadly force incidents in a timely manner. In March 2013, the LVMPD updated its news and public information policy. The updated policy requires that a public information officer be deployed to the scene of all officer-involved shootings. The officer's job is to serve as the department's liaison to the media during such events.[180] It also states that the sheriff will deliver a detailed briefing to the media within 72 hours of any use of deadly force incidents—although this timeline may be extended depending on the complexity of the situation.[181] According to Zehnder, the open process has improved the department's

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[177] Fachner and Carter.

[178] Zehnder, personal communication; and Fachner and Carter, *Final Assessment Report of the LVMPD*.

[179] "Multi-Cultural Advisory Council," Las Vegas Metropolitan Police Department, accessed May 25, 2018, https://www.lvmpd.com/en-us/PartnersWithTheCommunity/Pages/Multi-CulturalAdvisoryCouncil.aspx.

[180] Collins et al., *Assessment of the Collaborative Reform Initiative*.

[181] Fachner and Carter, *Final Assessment Report of the LVMPD*.

relationship with the public and media. He observes, "It's to the point now that if we pull the trigger, the media is not at the doorstep with pitchforks and torches because they know that within 72 hours somebody is going to be explaining the incident in excruciating detail."[182]

To further increase the department's transparency, the LVMPD began publicly releasing information on its deadly force incident investigations via the department's website in 2012. By the end of 2014, the website contained reports for all officer-involved shooting incidents from 2013 onward. The public now has the ability to examine the UFRB's findings and recommendations for each of these types of incidents.[183]

E. ASSESSING THE IMPACT

This section analyzes the effects of the LVMPD's various reform measures, including body-worn cameras, on three significant areas of concern: use of deadly force, use of less-lethal force, and complaints made against officers. To analyze the impact these measures have had on the areas of concern, this thesis provides a date reference indicating when the department initiated specific reform measures along with the annual statistics for each area of concern. The author of this thesis applies a moving average trend line to the data to reveal the aggregated effect over time of the department's actions on each area of concern. Due to the synchronous nature of the department's reform implementation, the 76 reform measures recommended by the Collaborative Reform initiative are grouped as a single measure. Investigative changes, reality-based training, and UFRB reforms are treated as separate events because they took place either before the Collaborative Reform initiative began or before the recommendations were finalized. This analysis treats body-worn cameras separately because the technology was not implemented until mid-2015, over a year after the Collaborative Reform initiative had ended. Although it is impossible to separate out the residual effect of specific reform initiatives, analyzing the data in this manner allows for an impact evaluation of each reform measure.

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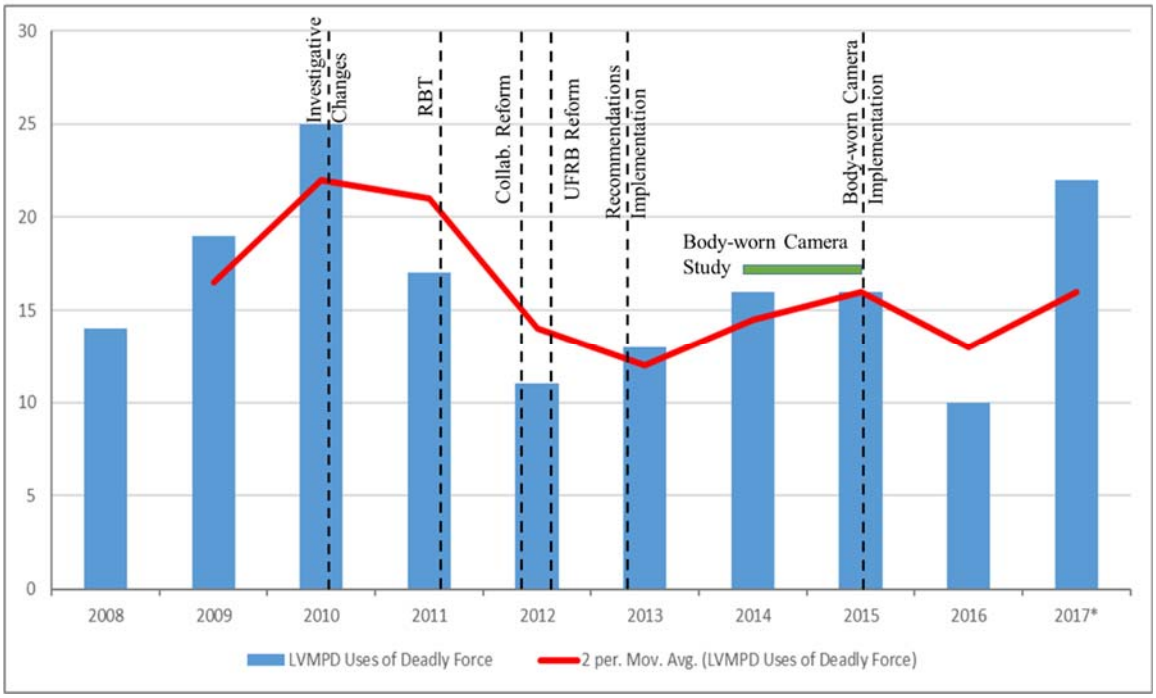
[182] Zehnder, personal communication.

[183] Collins et al., *Assessment of the Collaborative Reform Initiative*.

As illustrated in Figure 2, after spiking to an all-time high in 2010, the LVMPD's use of deadly force declined between 2010 and 2011, following the reorganization of the department's use-of-force investigatory process. The number of deadly force incidents fell further after the development and implementation of the RBT program in 2011. In 2012, the Collaboration Reform initiative began, and the LVMPD implemented a number of changes to its UFRB process. Nevertheless, by 2013, the use of deadly force began to increase slightly before leveling off in 2014 and 2015 as the department continued to enact more of the recommended reforms. The LVMPD began to expand its body-worn camera program in 2015 and realized a drastic reduction (-37.5 percent) in its number of deadly force incidents in 2016. However, despite the department's reform efforts, in 2017 the use of deadly force increased by 120 percent. This trend is consistent with historical LVMPD deadly force incident data dating back to 1991. The use of deadly force rises and declines periodically.[184]

[184] Fachner and Carter, Final Assessment Report of the LVMPD.



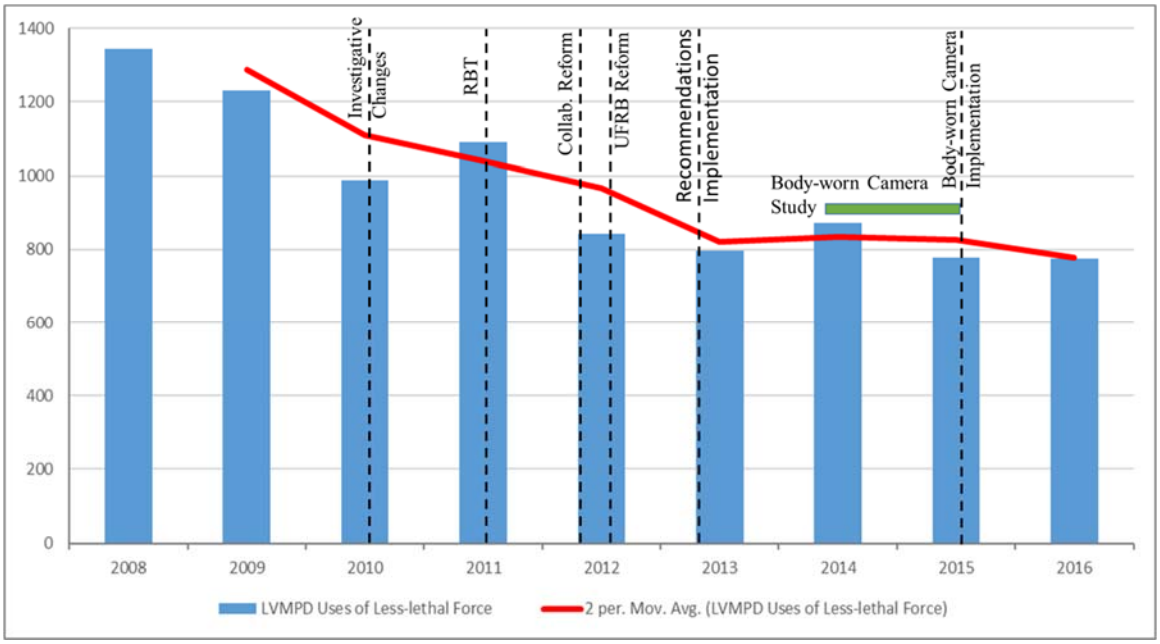
*2017 data only available up to December 9, 2017

Figure 2. LVMPD Deadly Force Statistics and Reform Implementation[185]

Figure 3 shows the statistics for less-lethal use of force in the same reform context as Figure 2. An examination of the data reveals that after a spike in 2011, the use of less-lethal force declined sharply after the implementation of RBT and the beginning of the Collaborative Reform initiative in late 2011 and 2012, respectively. Afterward, the number of less-lethal-force incidents stabilizes. Figure 4 depicts the annual total number of aggregated use-of-force incidents by the LVMPD. It illustrates the general decline of use-of-force events since 2011 and their subsequent stabilization from 2013. This trend may explain why the LVMPD's RCT did not realize a reduction in the use of force as noticeable as that of previous smaller studies. "We had a statistically significant reduction in uses of

[185] Adapted from Office of Internal Oversight, *Use of Force Statistical Analysis 2012–2016* (Las Vegas: Las Vegas Metropolitan Police Department, 2017), https://www.lvmpd.com/en-us/InternalOversightConstitutionalPolicing/Documents/Use%20of%20Force%20Statistical%20Analysis%202012-2016%20-%20051117.pdf; Fachner and Carter, *Final Assessment Report of the LVMPD*; and Las Vegas Metropolitan Police Department, "Assistant Sheriff Todd Fasulo Briefs the Media on December 9, 2017 OIS" (press release, LVMPD, December 13, 2017), https://www.lvmpd.com/en-us/Press%20Releases/PO%20284b%2012-13-17.pdf.

force, not huge, you know, not like Rialto, but that's like comparing apples and oranges," Zehnder explained while referencing the RCT's results.[186]

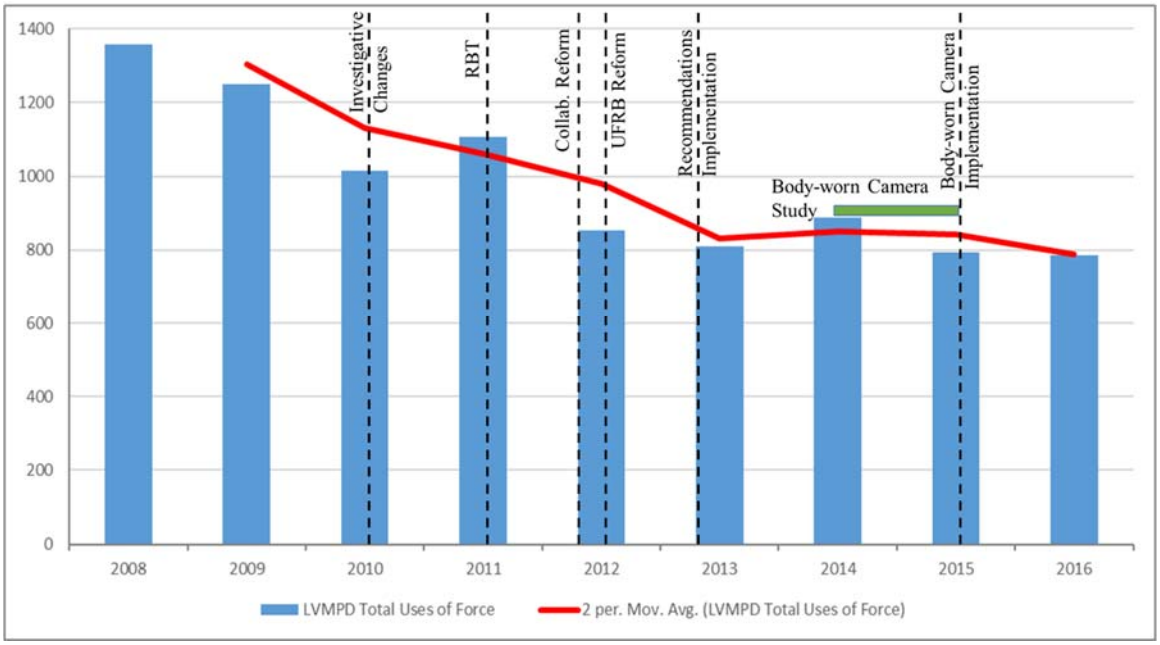


Data not available for 2017

Figure 3. LVMPD Less-Lethal Force Statistics and Reform Implementation[187]

[186] Zehnder, personal communication.

[187] Adapted from Office of Internal Oversight, *Use of Force Statistical Analysis*; and Fachner and Carter, *Final Assessment Report of the LVMPD*.



Data not available for 2017

Figure 4. LVMPD Aggregated Annual Use-of-Force Statistics[188]

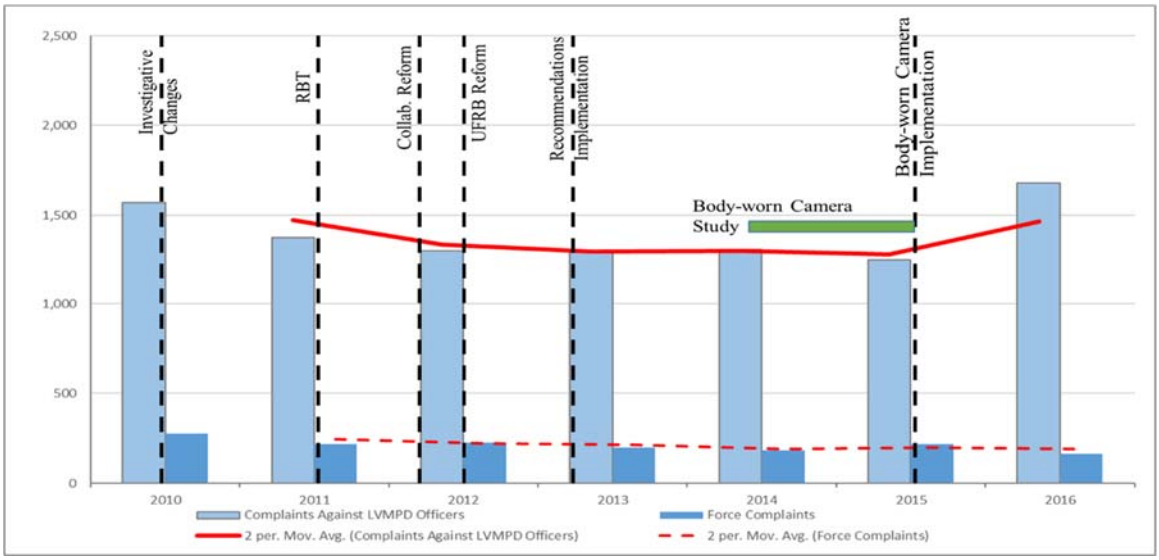
Complaints against LVMPD officers encompass accusations of misconduct in a variety of areas including public interaction, use of force, neglect of duty, and standards of conduct. Complaints concerning public interaction consistently accounted for the majority of complaints against officers (26–30 percent), roughly doubling allegations of improper use of force (12–17 percent) between 2010 and 2015.[189] Public interaction complaints are allegations of officer rudeness.[190] In 2016, the improper use of force and public interaction complaints balanced out with each accounting for approximately 13 percent of the total number of complaints—although the overall number of complaints remained relatively

[188] Adapted from Office of Internal Oversight, *Use of Force Statistical Analysis*; Fachner and Carter, *Final Assessment Report of the LVMPD*; and LVMPD, "Fasulo Briefs the Media."

[189] Collins et al., *Assessment of the Collaborative Reform Initiative*.

[190] Zehnder, personal communication.

stable.[191] Figure 5 shows the LVMPD's annual complaint statistics as well as those specifically for the use of force.



Data not available for 2017

Figure 5. Complaints against LVMPD Officers[192]

F. CONCLUSION

The LVMPD fundamentally changed its organizational culture through a number of reform measures including crisis intervention and de-escalation training, a focus on constitutional policing practices, reality-based training that simulated actual incidents, a renewed critical incident and use-of-force investigation process, a new internal discipline procedure, and the integration of technology to further such endeavors. Overall, the LVMPD's total annual use of force has declined approximately 42.3 percent since the department's leadership began noticing an increase in 2008. The figures have remained nearly constant despite the implementation of body-worn cameras. From 2015 to 2016, as

[191] Las Vegas Metropolitan Police Department, "2016 Internal Affairs Bureau Total Complaints Received" (fact sheet, LVMPD, 2017), https://www.lvmpd.com/en-us/Documents/2016_IAB_Totals.pdf; and Collins et al., *Assessment of the Collaborative Reform Initiative*.

[192] Adapted from Las Vegas Metropolitan Police Department, "2016 Complaints Received"; Collins et al., *Assessment of the Collaborative Reform Initiative*; and Office of Internal Oversight, *Use of Force Statistical Analysis*.

the department deployed more body-worn cameras, it realized a 34.1 percent increase in non–force related complaints while use of force–specific complaints remained roughly at the same level since 2012.[193] The fact that the reduction in complaints observed in the RTC did not carry over to the year following the trial might negatively affect the LVMPD's body-worn camera cost-benefit analysis.

The LVMPD has realized a benefit from coupling the technology with a structured and timely public information dissemination process. This pairing has increased the department's transparency. The process has matured to the point that following an officer-involved shooting, the media and members of the public are content to wait for the department to release information.[194]

This chapter has discussed the reformative measures taken by LVMPD to address the department's use of force and complaints against officers as well as increase its transparency. It has provided the context in which a body-worn camera RCT predicted that the technology would make a statistically significant impact in these areas of concerns. The chapter has examined the results of the LVMPD's body-worn camera RCT as well as the effectiveness of the department's other reform initiatives. By analyzing the statistics associated with the aforementioned areas of concern prior to and after body-worn camera implementation, the author has explored whether the efficacy of the technology observed in the RCT continued after the trial's completion. The data suggest that the LVMPD's implementation of body-worn cameras has not yielded results consistent with the RCT's prediction.

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[193] Office of Internal Oversight, *Use of Force Statistical Analysis*; Collins et al., *Assessment of the Collaborative Reform Initiative*; and Las Vegas Metropolitan Police Department, "2016 Complaints Received."

[194] Zehnder, personal communication.

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IV. CASE STUDY: METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA

> "Police officers are given tremendous authority in our society—up to and including the authority to use deadly force. If the public is to have trust and confidence in the police, it must believe that we are using this authority with the utmost care and wisdom."
>
> —Charles Ramsey, former MPDC police chief[195]

A. INTRODUCTION

In 2001, the Department of Justice (DOJ) declared that the Metropolitan Police Department of the District of Columbia (MPDC) had demonstrated a pattern of excessive use of force and a lack of accountability.[196] Now, the MPDC serves as an example for local police departments across the nation.[197] Michael Bromwich, a former DOJ-contracted independent monitor, says, "In a time of extraordinary national attention on the conduct of law enforcement agencies and their relationship to the communities they serve, MPD[C] operates from a position of substantial strength."[198] A recent report for the Office of the District of Columbia Auditor declares that the MPDC has become a leader in use-of-force and accountability reform. The report goes on to say that the department is one that many other police departments have turned to for an example of how to address similar problems.[199] The MPDC accomplished its transformation over a period of approximately

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[195] Metropolitan Police of the District of Columbia, *2000 Annual Report Force Investigation Team* (Washington, DC: MPDC, 2001), https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/fit_ar_00.pdf.

[196] William R. Yeomans, "Department of Justice Investigation of Use of Force by the Washington Metropolitan Police Department" (letter to Anthony Williams and Charles H. Ramsey, June 2001), https://www.justice.gov/crt/findings-letter-re-use-force-washington-metropolitan-police-department.

[197] Ryan J. Reilly and Tyler Tynes, "Local Police Departments Could Actually Learn a Lot from Washington, D.C.," Huffington Post, January 28, 2016, https://www.huffingtonpost.com/entry/washington-dc-metropolitan-police-department-reform_us_56a98781e4b0016489225d49; and Michael R. Bromwich, Ann Marie Doherty, and Dennis E. Nowicki, *The Durability of Police Reform the Metropolitan Police Department and Use of Force: 2008–2015* (Washington, DC: Bromwich Group, January 2016), http://www.dcauditor.org/sites/default/files/Full%20Report_2.pdf.

[198] Bromwich, Doherty, and Nowicki.

[199] Bromwich, Doherty, and Nowicki.

16 years using a multitude of reform measures. The department continues to implement new police reforms to enhance its standing within the community. In mid-2015, the department collaborated with Lab@DC, a research division within the district's Office of Budget and Performance Management, to conduct an 18-month randomized controlled trial (RCT) of body-worn cameras. By the end of the RCT in December 2016, the department had completed enterprise-wide implementation of the technology. However, the results of the study revealed that the body-worn cameras had no statistically significant effect on officer use of force, the number of complaints against officers, the activities of officers, or judicial results.[200]

This chapter examines the MPDC's body-worn camera experience, analyzing open-source information from news accounts, DOJ documents, MPDC reports, and District of Columbia government documents. It identifies the conditions under which body-worn cameras proved to have no effect on the number of use-of-force incidents or complaints against officers during an RCT of the technology. As in the previous chapter, the author examines the efficacy of body-worn cameras in the broader context of the MPDC's reformative initiatives and the technology's impact after implementation. The next section provides background information on the issues surrounding the MPDC prior to the department's reform initiatives. The following section summarizes the MPDC body-worn camera RCT and subsequent implementation. Afterward, this chapter discusses the major reform measures taken by the department prior to its adoption of body-worn camera technology. Next, the author analyzes the effectiveness of the MPDC's reform actions, including body-worn cameras, on the use of deadly and less-lethal force and complaints against officers in an effort to determine the impact of body-worn cameras in these areas.

B. BACKGROUND

In June 1998, Human Rights Watch, an international, non-governmental human rights advocacy organization, released a report on excessive use of force and accountability issues in American law enforcement agencies. The report covered 14 major police

[200] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

departments throughout the United States including the MPDC. According to Human Rights Watch, the MPDC was mismanaged, inadequately trained, plagued by scandals, and lacked transparency in the way it reviewed officer use of force.[201] In November that year, the *Washington Post* published a five-part special investigative report titled "Deadly Force." The Pulitzer Prize–winning report highlighted that throughout the 1990s, MPDC officers resorted to deadly force more often than any other large police department in the nation. The paper's findings showed that from 1993 to 1998, MPDC officers were involved in 640 shooting incidents, surpassing the Los Angeles Police Department's total of 600 for the same period, despite having approximately half the number of officers and serving a population nearly one-sixth the size.[202] The report questioned the legitimacy of the department's use-of-force practices and internal processes of accountability. Specifically, the series named a lack of training, oversight, supervision, and accountability as the main contributing factors to the MPDC's use-of-force issues.[203]

The *Washington Post*'s investigation uncovered a lack of accountability and transparency surrounding deadly force incidents within the department. According to the report, between 1992 and 1997, the department's internal use-of-force investigative process found the involved officer's use-of-force justified in 11 cases although forensic evidence and witness accounts did not support the findings. Furthermore, the report showed that oftentimes the department's internal investigations were inconsistent, contained errors, and omitted relevant facts.[204] The National Lawyers Guild reported that from 1994 through 1997, internal MPDC investigations found 87 percent of officer-involved shootings justified while only two investigations resulted in criminal charges against the involved officers. The report concluded that the department had a failing use-of-force investigation

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[201] "Shielded from Justice: Police Brutality and Accountability in the United States," Human Rights Watch, June 1998, https://www.hrw.org/legacy/reports98/police/uspo136.htm.

[202] Jeff Leen et al., "Deadly Force," *Washington Post*, November 15, 1998, http://www.washingtonpost.com/wp-srv/local/longterm/dcpolice/deadlyforce/police1full.htm.

[203] Jeff Leen et al.

[204] Jeff Leen et al.

system.[205] The MPDC's tracking and reporting of deadly force incidents also proved problematic. According to the *Washington Post*'s investigation, the MPDC reported only 29 of the 43 fatal officer-involved shootings between 1994 and 1997. Of the 14 missing officer-involved shootings for that period, seven were completely missing, and the department erroneously listed the other seven as nonfatal.[206]

In April 1998, Charles H. Ramsey became the MPDC's chief of police, replacing Larry Soulsby who resigned amid allegations of embezzlement.[207] By the end of the year, Chief Ramsey realized that the MPDC had lost the community's trust.[208] In January 1999, Washington, D.C., Mayor Anthony A. Williams and Chief Ramsey made an unprecedented request to the DOJ: they asked the DOJ to investigate every facet of the department's use-of-force practices. The DOJ analyzed all of the department's use of force and allegations of excessive force from 1994 to 1999. The DOJ also reviewed all MPDC use-of-force policies, procedures, and practices.[209] Given the uniqueness of the request, the DOJ agreed to provide the department with technical assistance to correct issues identified as the investigation progressed.[210]

The DOJ's review determined that a pattern of excessive use of force and avoidable force was prevalent within the MPDC. The department's officers were involved in approximately 1,400 reportable use-of-force incidents between 1994 and 1999. According to the DOJ's random sample analysis of the reported use of force, approximately 15 percent of the incidents involved an excessive amount of force. The DOJ expects a percentage of 1–2 percent in a well-trained and supervised police department. The report also indicated

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[205] Karen Hopkins, "'Deadly Force' Revisited: Transparency and Accountability for D.C. Police Use of Force," National Lawyers Guild, July 11, 2017, https://www.nlg.org/nlg-review/article/deadly-force-revisited-transparency-and-accountability-for-d-c-police-use-of-force/.

[206] Jeff Leen et al., "Deadly Force."

[207] Human Rights Watch, "Shielded from Justice"; and "Charles H. Ramsey," Metropolitan Police of the District of Columbia, accessed June 5, 2018, https://mpdc.dc.gov/biography/charles-h-ramsey.

[208] PolicyLink and Advancement Project, *Values, Leadership, and Sustainability.*

[209] Department of Justice, *Memorandum of Agreement between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department* (Washington, DC: Department of Justice, June 13, 2001), https://www.justice.gov/crt/memorandum-agreement-united-states-department-justice-and-district-columbia-and-dc-metropolitan.

[210] Yeomans, "Department of Justice Investigation."

that in a sizable number of incidents, the use of force was avoidable if the officers had used different tactics. In other words, the review showed that officers unnecessarily placed themselves in positions that drove them to use force to resolve the situations. Of the use-of-force incidents in the DOJ's sample, approximately 14 percent involved officers who were off duty. Approximately 25 percent of those off-duty use-of-force incidents involved alcohol or took place while the off-duty officer was at a nightclub or bar.[211]

The DOJ review also found that use-of-force reporting policies were neither comprehensive nor consistently followed. The policies in place did not provide MPDC officers with clear guidance on which types of force the officers needed to report. As a result, the review team discovered that the only type of use of force that could be analyzed with a high degree of certainty was the discharge of a firearm. Thus, the MPDC's executive leadership lacked sufficient information to measure and manage its officers' use of force. The MPDC did not have the ability to ascertain which officers were more likely to use force, what circumstances led officers to use force, which types of force were most common and how frequently they were used, or what injuries could be associated with the use of force by its officers.[212]

The DOJ's investigation revealed deficiencies in the manner in which the MPDC handled many use-of-force investigations. These deficiencies revolved around what the DOJ considered a lack of proficiency, neutrality, and thoroughness of the MPDC's use-of-force investigators. An analysis of the investigations showed that in many cases, the investigators worked in the same district where the event occurred. The investigators often lack training in areas such as investigation skills, interview and interrogation techniques, evidence handling, and report writing. The DOJ also found instances in which the investigators failed to perform crucial tasks like documenting the location of physical evidence or interviewing victims, suspects, or witnesses.[213] Furthermore, the DOJ's investigation highlighted that in 1995, the District of Columbia had disbanded its Civilian

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[211] Yeomans.

[212] Yeomans.

[213] Yeomans.

Complaint Review Board, which had been responsible for investigating complaints, including excessive force allegations, against MPDC officers. This action shifted the investigatory responsibility for complaints to the MPDC, which lacked an adequate system for handling the process.[214]

Based on the results of the DOJ investigation, both parties entered into a memorandum of agreement (MOA) on June 13, 2001.[215] Under the terms of the MOA, the MPDC agreed to implement wide-ranging reforms designed to decrease officer use of force and increase transparency and officer accountability as well as to continue strengthening reforms already undertaken.[216] As a condition of the MOA, the MPDC agreed to have the department's reform implementation process monitored by an independent party.[217] In April 2002, the DOJ and the MPDC jointly selected Michael R. Bromwich to serve as the independent monitor. For the next six years, Bromwich monitored the MPDC's reform implementation and submitted 24 quarterly progress and compliance reports to the DOJ and the MPDC. By April 2008, the MPDC had implemented more than 80 percent of the 126 DOJ recommendations. Due to the department's commitment and sustained improvements, Bromwich recommended the termination of the MOA between the DOJ and the MPDC. On April 7, 2008, the DOJ concurred, thus ending the MPDC's legal obligations under the agreement.[218]

In 2016, approximately eight years after the termination of the MOA, the Office of the District of Columbia Auditor commissioned the Bromwich Group to conduct a follow-up assessment of the MPDC's continued reform efforts. The report concluded that although there were still areas in which the MPDC could improve, the department "continues to be consistent with best practices in policing."[219] The review team noted,

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[214] Yeomans.

[215] Sarah Childress, "Fixing the Force," Frontline, December 14, 2015, https://www.pbs.org/wgbh/frontline/article/fixing-the-force/.

[216] Department of Justice, *Memorandum of Agreement*.

[217] PolicyLink and Advancement Project, *Values, Leadership, and Sustainability*.

[218] "DOJ Investigation of the Washington, D.C., Metropolitan Police Department," Civil Rights Litigation Clearinghouse, accessed October 13, 2018, https://www.clearinghouse.net/detail.php?id=1026.

[219] Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*, 25.

> MPD has generally kept in place the use of force policies and procedures that brought it into substantial compliance with the MOA more than seven years ago even though it was under no legal obligation to do so once the MOA was terminated in 2008. At the same time as the policies and procedures have remained in place, we have seen evidence of the MPD command staff's continuing commitment to those reform principles and to fair and constitutional policing. MPD's record in successfully reducing its use of the most serious types of force, including firearms, even during periods of increased crime in the District of Columbia, speaks for itself, and we have seen no evidence that the excessive use of force has reemerged as a problem within MPD. MPD is plainly a very different, and much better, law enforcement agency than it was when DOJ began its investigation in 1999.[220]

C. BODY-WORN CAMERAS

In October 2014, the MPDC started evaluating body-worn cameras from various suppliers. In mid-2015, the department deployed approximately 400 body-worn cameras across two of its districts. In October that year, the MPDC received $1 million from the DOJ to expand the department's body-worn camera program.[221] In December 2016, the MPDC completed equipping all of the department's patrol officers with body-worn cameras.[222] The deployment of approximately 2,800 body-worn cameras was the largest of its kind in the United States at the time.[223]

Throughout its body-worn camera deployment effort, the MPDC collaborated with LAB@DC, to conduct an RCT that assessed the impact of the department-wide deployment of the technology.[224] The evaluation began in June 2015 with nearly half of

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[220] Bromwich, Doherty, and Nowicki, i.

[221] Metropolitan Police of the District of Columbia, *A Report on MPD's Use of Body-Worn Cameras* (Washington, DC: MPDC, October 2015), https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/BWC_Report_2015October_0.pdf.

[222] District of Columbia Office of Police Complaints, *Report on Use of Force by the Washington, D.C. Metropolitan Police Department Fiscal Year 2017* (Washington, DC: Police Complaints Board, January 23, 2018), https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/UOF%2017%20Final.pdf.

[223] Metropolitan Police of the District of Columbia, *A Report on MPD's Use of Body-Worn Cameras* (Washington, DC: MPDC, May 2017), https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Body-Worn%20Camera%20Report_May%202017.pdf.

[224] "The Lab@DC," Government of the District of Columbia, accessed June 8, 2018, http://thelab.dc.gov/; and Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

the department's officers assigned to wear body-worn cameras. In other words, the treatment group, officers assigned to wear the technology, consisted of approximately 50 percent of the total force. The RCT ran until December 2016, when the MPDC issued body-worn cameras to the remaining officers. The researchers continued to monitor policy activity outcomes until the end of March 2017. In October 2017, LAB@DC released the results of its study. The study concluded that body-worn cameras had no statistical effect on officer use of force, complaints against officers, police activity, or judicial outcomes. Several researchers have suggested that the other reformative actions taken by the department prior to implementing body-worn cameras reduced the technology's potential to make a positive impact in the MPDC.[225]

D. OTHER MAJOR REFORMS

This section explores the major reform measures taken by the MPDC prior to, during, and after the department's MOA with the DOJ. While this section does not exhaustively cover every change that the department has implemented since 1999, it provides a relative context for exploring the conditions under which body-worn cameras did not have a statistically significant impact on the MPDC's use of force or complaints against officers during the department's RCT and beyond. The information is presented categorically, as opposed to chronologically, due to the fluidity of the MPDC's reform efforts.

1. Accountability and Oversight

Prior to entering into the MOA with the DOJ, the MPDC began reforming its processes for investigating and reviewing the use of force. In April 1999, the MPDC operationalized the department's first Force Investigation Team (FIT). As part of the MPDC's Office of Professional Responsibility, FIT was tasked with investigating all of the department's use-of-force incidents as well as its in-custody deaths. During the first year of its operation, FIT formalized the manner in which the MPDC investigated the

[225] Amanda Ripley, "A Big Test of Police Body Cameras Defies Expectations," *New York Times*, November 9, 2017, https://www.nytimes.com/2017/10/20/upshot/a-big-test-of-police-body-cameras-defies-expectations.html.

department's most serious use-of-force incidents.[226] In accordance with the DOJ's MOA, in 2001 the MPDC further refined FIT's processes by establishing investigation completion deadlines and specific reporting requirements.[227] The FIT process continued to mature and evolve throughout the period that the MOA was in effect. By 2008, its role had expanded to include the investigation of non-use-of-force misconduct. The FIT assumed the responsibility of issuing findings for such misconduct as well as recommendations to the Use of Force Review Board (UFRB).[228] Between 1999 and 2008, the MPDC continued to work with the DOJ to formalize the manner in which the department investigated less-serious use of force and misconduct. This collaboration resulted in the development of an investigative manual, detailing a repeatable process that addressed the issues raised by the initial DOJ review, and a departmental general order to guide the investigations in March 2008.[229]

In 1999, the MPDC established a UFRB. The board, directed by the department's Internal Affairs Division, reviews all use-of-force incidents that fall into the following categories: serious use of force, excessive use-of-force allegations, vehicle pursuits that result in death, and other misconduct allegations. Although the UFRB has evolved since its beginning, its basic structure has remained the same. It consists of seven voting members; five commanding officers from internal departments; a commander or inspector; the Office of Police Compliance's executive director; and a member from the Fraternal Order of Police, a police officer union. Initially, the UFRB met annually.[230] However, to improve departmental oversight, this frequency has increased over the years to a twice-monthly meeting requirement.[231]

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[226] Metropolitan Police of the District of Columbia, *2000 Annual Report Force Investigation Team*.

[227] Michael R. Bromwich, *Quarterly Report of the Independent Monitor for the Metropolitan Police Department* (Washington, DC: Office of the Independent Monitor, August 1, 2002), https://www.clearinghouse.net/chDocs/public/PN-DC-0001-0004.pdf.

[228] Michael R Bromwich, *Final Report of the Independent Monitor for the Metropolitan Police Department* (Washington, DC: Office of the Independent Monitor, June 13, 2008), https://www.clearinghouse.net/chDocs/public/PN-DC-0001-0032.pdf.

[229] Bromwich.

[230] District of Columbia Office of Police Complaints, *Report on Use of Force*.

[231] Bromwich, *Final Independent Monitor Report*.

FIT and the UFRB operate together to complete MPDC internal investigations. Once FIT has completed its investigation, the case is presented to the UFRB along with a recommended disposition. The URFB is responsible for making the final determination. Regarding use-of-force reviews, the UFRB considers whether the use of force was justified, whether it complied with the MPDC's applicable policies, and whether it presents an opportunity to improve training or tactics. The URFB's determination options are as follows: justified within policy, justified but a violation of policy, justified with tactical errors, or not justified outside of policy.[232] In reviewing allegations of excessive force or misconduct, the UFRB's determination options are as follows: unfounded, sustained, exonerated, or insufficient facts to make a determination. Beyond making determinations, the UFRB also makes recommendations to the MPDC's chief concerning use-of-force investigations and practices as well as other policy improvements.[233]

2. Use-of-Force Policy

The 2001 MOA mandated that the MPDC create a comprehensive use-of-force policy that was consistent with applicable laws.[234] The department completed the mandate on September 17, 2002.[235] Since that time, the MPDC has revised its use-of-force policy three times. Revisions were made in 2005, 2016, and 2017. The department's policy now emphasizes de-escalating potential use-of-force situations by requiring officers to use verbal persuasion, tactical communication, and warnings when feasible. The 2017 policy also instructs officers to evaluate the situation continually to ensure that their use of force is proportionate with the actions of the suspects. Although the 2002 version of the MPDC's use-of-force policy clearly stated that it was the department's policy to preserve and value human life when using force, by 2017, the policy had evolved to place more emphasis on

[232] District of Columbia Office of Police Complaints, *Report on Use of Force*.

[233] District of Columbia Office of Police Complaints.

[234] Department of Justice, *Memorandum of Agreement*.

[235] Bromwich, *Final Independent Monitor Report*.

the "sanctity of human life at all times."[236] One of the main changes to the policy has been the transition away from a traditional use-of-force continuum to a force decision-making model and framework.[237] This provides officers more flexibility in deciding what level of force is appropriate and highlights the obligation to assess the situation continuously and de-escalate if possible.[238] The 2017 policy also prohibits the use of techniques that apply pressure to a suspect's neck.[239]

3. Use-of-Force Training

The lack of a structured continual training program for its officers was a major issue for the MPDC in 1998, when Chief Ramsey assumed command of the department. A 2002 report from the independent monitor concluded that the department's continuing training program lacked coordination and sufficient oversight, and its lesson plans contained information contrary to applicable laws as well as the MPDC's own policies.[240] Since that time, the MPDC has made significant enhancements to the department's use-of-force training program.

In 1999, the MPDC's firearms training and qualifications requirement increased from four hours twice a year to eight hours semiannually. The department implemented this increase to facilitate the incorporation of officer judgment and decision making into its use-of-force training. The changes included using scenario-based training, conducted with

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[236] Metropolitan Police of the District of Columbia, *Use of Force*, General Order RAR-901.07 (Washington, DC: MPDC, October 7, 2002), https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569bf3c740667a727ee7ef39/1453061069584/DC+Metropolitan+police+use+of+force+policy.pdf; and Metropolitan Police of the District of Columbia, *Use of Force*, General Order RAR-901.07 (Washington, DC: MPDC, November 3, 2017), https://go.mpdconline.com/GO/GO_901_07.pdf.

[237] MPDC, *Use of Force*, General Order RAR-901.07, 2002; and MPDC, *Use of Force*, General Order RAR-901.07, 2017.

[238] Ed Flosi, "Use of Force: Downfalls of the Continuum Model," Police One, May 30, 2012, https://www.policeone.com/use-of-force/articles/5643926-Use-of-force-Downfalls-of-the-continuum-model/; and MPDC, *Use of Force*, General Order RAR-901.07, 2017.

[239] MPDC.

[240] Michael R. Bromwich et al., *Special Report of the Independent Monitor for Metropolitan Police Department* (Washington, DC: Office of the Independent Monitor, June 12, 2002), https://www.clearinghouse.net/chDocs/public/PN-DC-0001-0003.pdf; and Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*.

role players and training (non-lethal) ammunition, and virtual-reality firearms training.[241] Scenarios for training are based on actual use-of-force incidents and incorporate critical thinking and decision-making skills.[242] In 2001, the department reported that 99 percent of its officers had met the firearms training and qualification requirement compared to 12 percent of officers in 1997.[243] Also in 1999, the MPDC instituted a 40-hour in-service training program and increased its daily role-call training efforts. The former provides training to officers in a variety of subjects ranging from less-lethal device re-certification to de-escalation tactics. The latter is used to disseminate information concerning policies and directives to ensure that officers are kept up to date.[244]

In April 2009, the MPDC initiated a training program for crisis intervention officers. The program is designed to equip specially trained officers with the necessary skills to de-escalate situations involving people who are emotionally distressed or mentally ill.[245] In September 2016, the MPDC had 735 active crisis intervention officers.[246] To further emphasize the importance of de-escalation, the department began to develop a standalone training module dedicated to teaching de-escalation techniques in 2016. Once developed, this training will be mandatory for MPDC officers.[247]

4. Transparency and Community Trust

The MPDC has reinvigorated its efforts to increase the department's transparency, an area in which the department has seemed to struggle. From 2000 to 2002, the MPDC's

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[241] Metropolitan Police of the District of Columbia, *Maurice T. Turner, Jr. Institute of Police Science Annual Report* (Washington, DC: MPDC, February 2002), https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/ips_annual02.pdf.

[242] Bromwich, *Final Independent Monitor Report*.

[243] Metropolitan Police of the District of Columbia, *Institute of Police Science Annual Report*.

[244] Metropolitan Police of the District of Columbia.

[245] "Metropolitan Police Department Recognizes Crisis Intervention Officer of the Year," Department of Behavioral Health, June 12, 2013, https://dbh.dc.gov/release/metropolitan-police-department-recognizes-crisis-intervention-officer-year.

[246] Jennifer E. Allen, *District of Columbia Crisis Intervention Officer (CIO) Program Annual Trend Report Reporting Period: FY11 through FY16* (Washington, DC: Department of Behavioral Health, 2017), https://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/CIO_FY11-FY16_Trend%20Report_12-19-16Final.pdf.

[247] Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*.

FIT produced annual reports publishing the department's use-of-force statistics. Between 2004 and 2007, these reports became more detailed and were released on a quarterly basis. In 2008, the MPDC began including an overview of the department's use of force in its annual reports. However, these were limited overviews and provided only the number of officer-involved shootings, neglecting other types of use of force. In late 2017, the MPDC, in collaboration with the district's Office of Police Complaints, released the department's first annual report dedicated to increasing its transparency regarding the use of force. The stated purpose of the new report is to help the public understand the circumstances surrounding the MPDC's use of force and enhance community trust.[248]

The MPDC has also leveraged technology and changed its policing strategies to further its community engagement and trust-building efforts. In 2004, the department established email discussion forums as a way of gathering community input and sharing information. These virtual community-meeting groups are designed to foster a partnership between the MPDC and the community it serves. The department has also attempted to make itself more accessible to the public. Each of the MPDC's seven districts monitors its dedicated forum around the clock. The MPDC uses the forums as a means to engage citizens and other stakeholders in problem-solving efforts.[249] To complement its virtual meeting forums, the MPDC has established a robust social media presence, whereby the department shares vital information with the public. Although there is no empirical data to assess the effectiveness of these efforts, former MPDC Police Chief Cathy Lanier credits the department's social media presence with improving the department's relationship with the surrounding community.[250] In 2007, the department shifted from a zero-tolerance policing strategy to a community collaboration strategy.[251] The new approach focuses on

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[248] District of Columbia Office of Police Complaints, *Report on Use of Force*.

[249] "Police-Community Online Email List Groups," MPDC, accessed June 7, 2018, https://mpdc.dc.gov/page/police-community-online-email-list-groups; and Cathy L. Lanier, "The State of Policing: A Police Chief's Perspective," *Georgetown Law Journal* 45 (2016), https://georgetownlawjournal.org/assets/lanier-arcp-preface-3e8abde73d695a261c22f2f977d44f2c0ce771bbff857004a841a9535690cdc7.pdf.

[250] Lanier, "The State of Policing."

[251] John Buntin, "Cathy Lanier Changes Policing in D.C. and Maybe Nation," *Governning*, July 2012, http://www.governing.com/topics/public-justice-safety/chief-cathy-lanier-changes-policing.html.

developing relationships with members of the community, as opposed to making arrests for minor violations.[252]

In January 2001, the District of Columbia re-implemented its civilian oversight of allegations against MPDC officers. Over the years, the organization's name has changed, but its purpose has remained the same. Currently, the district's OPC is the agency responsible for conducting objective and unbiased reviews of allegations brought against MPDC officers. Through the Police Complaint Board, the agency assists in mediating allegations, referring officers to training programs, and making policy recommendations when appropriate. It is independent from the MPDC and staffed by civilians, appointed by the mayor, and approved by the city council.[253] From 2001 through the present, the OPC has published annual reports that detail findings on its website.[254]

E. ASSESSING THE IMPACT

This section analyzes the effects of the MPDC's various reform measures, including body-worn camera implementation, on three significant areas of concern: use of deadly force, use of less-lethal force, and allegations made against officers. To analyze the impact the reform actions had on the areas of concern, annual statistics for each area are presented along with a date reference depicting when the department initiated the reform measures whenever possible. A moving average trend line is applied to reveal the aggregated effect over time of the department's actions on each area of concern. It should be noted that because of the lack of data prior to 2008, it is only possible to overlay all the reform implementation dates with the MPDC's use of deadly force statistics.

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[252] Jocelyn Fontaine, Joshua Markman, and Carey Nadeau, *Promising Practices of the District of Columbia Metropolitan Police Department* (Washington, DC: District of Columbia Crime Policy Institute, December 2010), https://www.urban.org/research/publication/promising-practices-district-columbia-metropolitan-police-department.

[253] Office of Citizen Complaint Review, *Fiscal Year 2001 Annual Report* (Washington, DC: Citizen Complaint Review Board, December 10, 2001), https://mpdc.dc.gov/sites/default/files/dc/sites/police%20complaints/publication/attachments/annual_report_fy01_final.pdf; and Office of Police Complaints, *Annual Report Fiscal Year 2004* (Washington DC: Police Complaints Board, 2005), https://policecomplaints.dc.gov/sites/default/files/dc/sites/police%20complaints/publication/attachments/Annual_Report_FY04_Final_OCTO.pdf.

[254] District of Columbia Office of Police Complaints, *Annual Report 2014* (Washington, DC: Police Complaints Board, 2014), https://policecomplaints.dc.gov/page/annual-reports-for-OPC.

Due to the synchronous and continuous nature of the MPDC's reform implementation, the 126 substantial reform measures recommended by the MOA are grouped as a single measure. The formalization of the MPDC's use-of-force investigative process and the establishment of the department's Professional Conduct Board are separated as single events because these actions took place either as the MOA was being terminated or afterward. Additionally, the creation of the Office of Police Complaints is presented as a separate event because it was not a department effort. The policing strategy shift to community collaboration is also depicted separately. This analysis treats body-worn cameras separately because the technology was not implemented until the end of 2016, over seven years after the termination of the MOA with the DOJ. Analyzing the data in this manner allows for an impact evaluation of the department's reform measure.

As shown in Figure 6, the MPDC's use of deadly force incidents declined sharply in 2000 as the DOJ began its review of the department. During the six years that the MPDC was obligated to meet the conditions of the MOA, the department's use of deadly force continued to trend downward except for in 2007. The year following the termination of the MOA saw another significant spike in the department's use of deadly force. However, as the MPDC continues to mature its reform efforts, the use of deadly force drops and stabilizes at roughly its present level. The data suggest that further reforms such as the establishment of the Professional Conduct and Intervention Board and body-worn camera implementation have not had a significant impact on the MPDC's number of deadly force incidents.

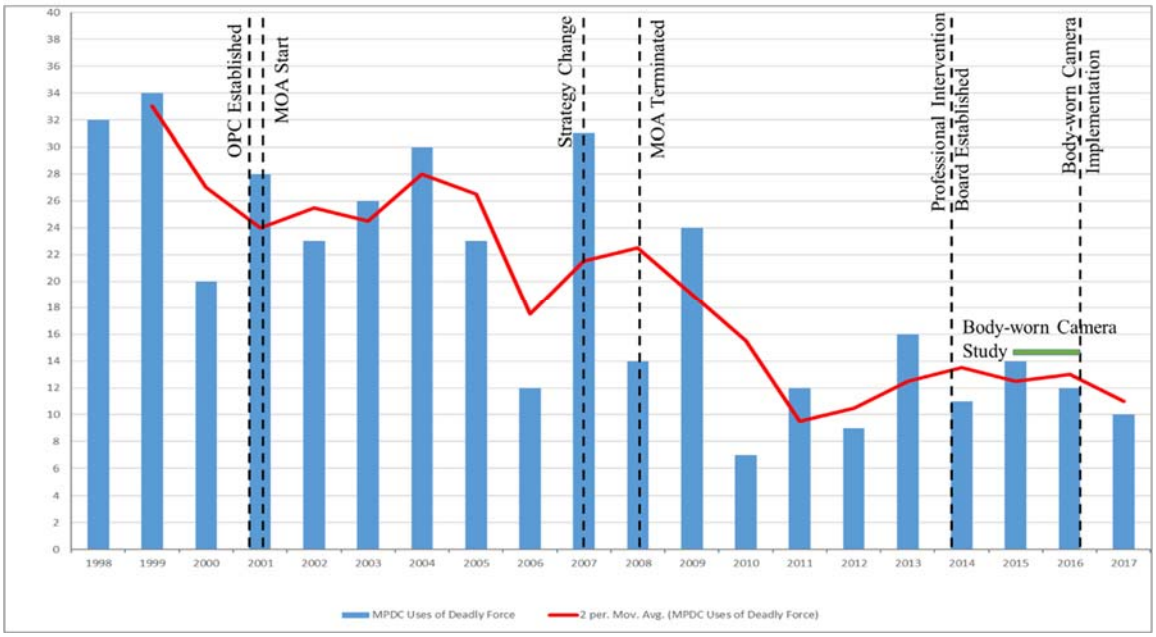

Figure 6. MPDC Deadly Force Statistics and Reform Implementation[255]

Figure 7 shows the MPDC's annual statistics for less-lethal use of force. The data reveal an upward trend in the department's use of less-lethal force from 2010 through 2014. Beginning in 2014, use of less-lethal force stabilizes until 2017. The significant increase in 2017 coincides with a change in the MPDC's less-lethal force reporting requirements. That year, the MPDC re-implemented the requirement for officers to report when they use takedown techniques to place a suspect on the ground physically. According to the data, the institution of the Professional Conduct and Intervention Board had no impact on the frequency that MPDC officers use less-lethal force. It is impossible to determine definitively the impact of body-worn camera implementation on this area of concern due to the change in reporting requirements.

[255] Adapted from PolicyLink and Advancement Project, *Values, Leadership, and Sustainability*; Metropolitan Police of the District of Columbia, *2000 Annual Report Force Investigation Team*; Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*; and District of Columbia Office of Police Complaints, *Report on Use of Force*.

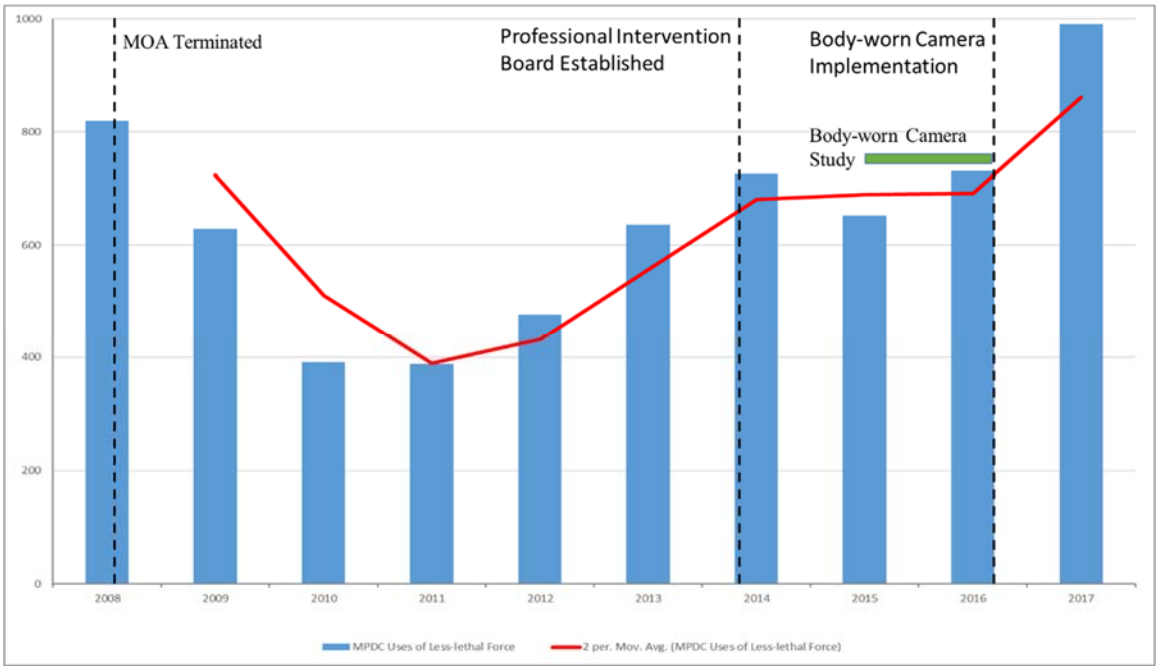

Figure 7. MPDC Annual Use of Less-lethal Force[256]

Figure 8 depicts the annual total number of aggregated use of force by the MPDC. It illustrates the general increase in the total use-of-force incidents from 2011 to 2014 and stabilization until 2017. Not surprisingly, given the majority of the MPDC's use of force involves less-lethal force incidents, this tendency mirrors the department's trend toward using less-lethal force.

[256] Adapted from *Bromwich, Doherty, and Nowicki, The Durability of Police Reform*; and District of Columbia Office of Police Complaints, *Report on Use of Force*.

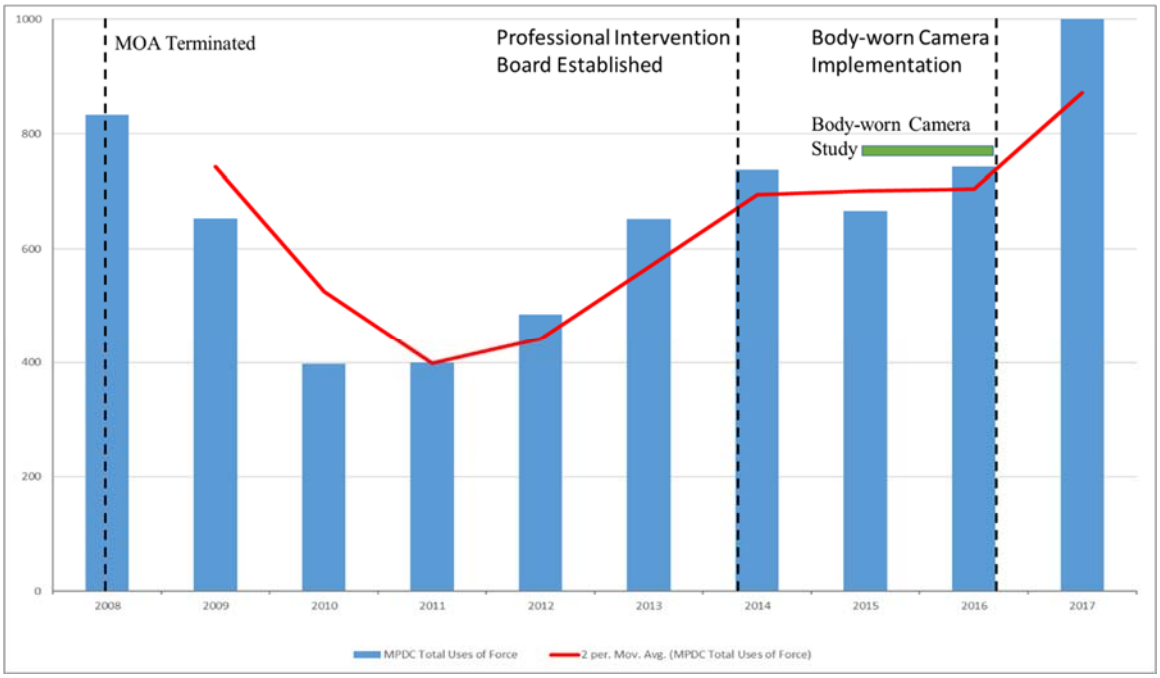

Figure 8. Aggregated Total MPDC Use of Force[257]

Figure 9 shows the yearly data on allegations made against MPDC officers from 2008 to 2017. This analysis focuses on allegations of excessive or unnecessary force and public contact allegations. A year after the MOA was terminated, allegations in both categories increased to their highest point. During the period between 2010 and 2012, allegations remained stable before decreasing in 2013. One year after the MPDC created the Professional Conduct and Intervention Board, public contact allegations increased significantly. That same year, use-of-force allegations experienced a slight increase. In 2017, after the MPDC implemented its enterprise-wide body-worn camera program, the department realized a dramatic increase in public contact allegations, which nearly returned to their 2008 level. The MPDC's use-of-force allegations also increased in 2017—although they remained well below the 2008–2009 level. However, according to the District of

[257] Adapted from Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*; PolicyLink and Advancement Project, *Values, Leadership, and Sustainability*; and District of Columbia Office of Police Complaints, *Report on Use of Force*.

Columbia's OPC, body-worn cameras have reduced the time required by its investigators to resolve allegations against MPDC officers.[258]

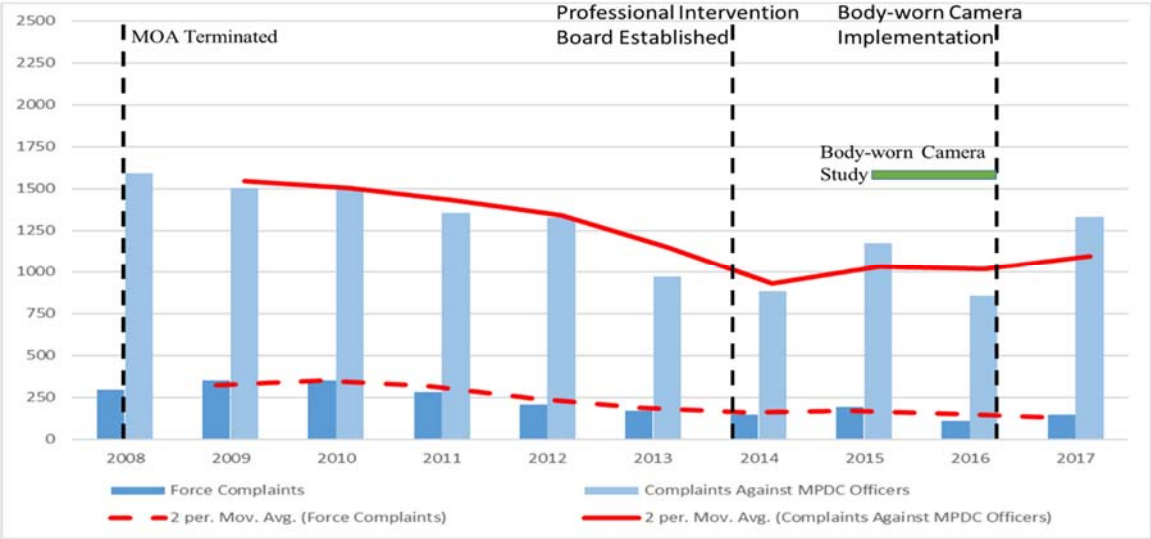

Figure 9. Complaints against MPDC Officers[259]

F. CONCLUSION

As noted in the latest report for the Office of the District of Columbia Auditor, the MPDC is profoundly different than it was in the 1990s.[260] In 2001, the department entered into an MOA with the DOJ to implement wide-ranging reform measures regarding its use-of-force policy, training, investigations, and officer accountability. Although the MOA was terminated in 2008, the MPDC continued along the same reformative path. The department has restructured virtually every aspect of its use-of-force program from training to its

[258] District of Columbia Office of Police Complaints, *Annual Report 2017* (Washington, DC: Police Complaints Board, 2017), https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/OfficeofPoliceComplaints_AR17.pdf.

[259] Adapted from District of Columbia Office of Police Complaints, *Annual Report Fiscal Year 2010* (Washington, DC: Police Complaints Board, 2011), https://policecomplaints.dc.gov/sites/default/files/dc/sites/police%20complaints/publication/attachments/annual_report_2010_fnl.pdf; District of Columbia Office of Police Complaints, *Annual Report 2014*; and District of Columbia Office of Police Complaints, *Annual Report 2017*.

[260] Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*.

investigative process, increased its civilian oversight of allegations, and changed from a zero-tolerance policy to a more community-collaboration policing strategy.

Data from 2017 show that since 1998, the MPDC's use of deadly force has declined by 68 percent. However, the department's use of less-lethal force has increased by 21 percent from its 2008 level. Since 2008, total complaints against officers are down 16.2 percent, and specific use-of-force complaints have declined 50.6 percent. The data support the results of the department's RCT. The implementation of body-worn cameras does not appear to have affected the number of the MPDC's use-of-force incidents or the number of complaints filed against its officers.

This chapter has discussed the reformative measures taken by the MPDC to address the department's use of force and complaints against officers and to increase its transparency. The author has provided the context in which a body-worn camera RCT predicted that the technology would not make a statistically significant impact in these areas of concern. The chapter has examined the results of the MPDC's body-worn camera RCT as well as the effectiveness of the department's other reform initiatives. By analyzing the statistics associated with the aforementioned areas of concern prior to and after body-worn camera implementation, the author has explored whether the lack of efficacy of the technology observed in the RCT continued after the trial's completion. The data suggest that the MPDC's implementation of body-worn cameras has been consistent with the department's RCT prediction and has not had a statistically significant impact on the use of force and complaints against officers.

V. FINDINGS AND CBP DISCUSSION

> "CBP is committed to continuous improvement, innovation, transparency and the highest standards of professionalism. We are constantly pursuing technologies and embracing those that further those goals."
>
> —Austin L. Skero[261]

A. INTRODUCTION

While there are some slight variations, the vast majority of research regarding the efficacy of body-worn cameras uses complaints against officers and officer use of force as dependent variables.[262] Using these same areas of concern, the previous two chapters assessed the impact of body-worn cameras in the context of the broader police reform measures taken by the Las Vegas Metropolitan Police Department (LVMPD) and the Metropolitan Police of the District of Columbia (MPDC) before, during, and after both departments realized enterprise-wide adoption of the technology. The first section of this chapter compares the results from both departments' randomized controlled trials (RCTs) with data from before and after the full-scale body-worn camera implementations that followed. This comparison advances the discussion beyond the results of the individual departments' RCTs to better inform decision makers as to the technology's potential effectiveness. The next section of this chapter analyzes the findings from the author's research. The following section describes the measures that Customs and Border Protection (CBP) has taken to reduce the number of use-of-force incidents by its law enforcement personnel and complaints against its officers and agents as well as increase the agency's transparency. The final section assesses the efficacy of CBP's initiatives in the areas of concern.

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[261] Mark Rockwell, "Body Cams Get Tryout at Borders," GCN, May 3, 2018, https://gcn.com/articles/2018/05/03/cbp-body-worn-camera-test.aspx. Austin Skero is the director of CBP Law Enforcement Safety and Compliance.

[262] Braga et al., *New Findings from a Randomized Controlled Trial*; Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras"; White, *Assessing the Evidence*; and Ariel, Farrar, and Sutherland, "The Effect of Police Body-Worn Cameras."

B. FINDINGS

This section examines the findings of the case studies within the framework of two of the four research sub-questions: Do conditions exist that have shown body-worn cameras to be effective at decreasing use-of-force incidents and increasing officer accountability and agency transparency? Under what conditions have body-worn cameras not been effective? The author does not dispute the findings of the RCTs conducted by the LVMPD or the MPDC but rather examines the impact of body-worn cameras within those departments after those trials were completed.

The LVMPD body-worn camera trial concluded that the technology played a role in decreasing the number of use-of-force incidents among the trial's participants. However, the trial consisted only of 30 percent of the department's total number of officers.[263] While the experimental group—those officers assigned to wear body-worn cameras as part of the RCT—did realize an 11.5 percent reduction in use-of-force incidents during the trial period, the department as a whole experienced a 10.5 percent reduction in the use of force.[264] In other words, the entire department's use of force declined by roughly the same percentage as the 15 percent of officers involved in the experimental group—despite having approximately 70 percent of the department's officers being without the technology and not associated with the RCT. Two possible reasons for the similar results between the experimental group and the remaining officers include a spillover effect or other reformative measures within LVMPD, which may have produced similar results as the treatment.

A spillover effect refers to the treatment having an effect on individuals who did not receive the treatment.[265] In this case, the presence of a spillover effect on officers not involved in the RCT would suggest that the presence of body-worn cameras within the

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[263] Braga et al., *New Findings from a Randomized Controlled Trial*.

[264] Braga et al., *New Findings from a Randomized Controlled Trial*; Office of Internal Oversight, *Use of Force Statistical Analysis*; and Fachner and Carter, *Final Assessment Report of the LVMPD*.

[265] Dagmara Celik Katreniak, "Power Calculations" (lecture presented at the Higher School of Economics Power Calculations, Moscow, October 20, 2014), https://www.hse.ru/data/2014/10/21/1098983363/Lecture_3_SampleAndPowerCalculations.pdf.

department somehow altered their behavior. To determine whether a spillover effect contributed to this department-wide decline in the use of force, the author analyzed use-of-force data from the years prior to and after the LVMPD study. Interestingly, LVMPD use of force remained virtually the same even as the department began to deploy more body-worn cameras after the conclusion of its RCT in September 2015. In fact, the data indicate that the number of use-of-force incidents within the LVMPD for the year prior to the body-worn camera RCT and the years following it are nearly identical. This suggests that a spillover effect was not responsible for the decrease in the number of use-of-force incidents within the LVMPD. Thus, the data suggest a correlation between the reduction in the use of force and the other reformative measures taken by the department.

The LVMPD's RCT also concluded that body-worn cameras played a prominent role in reducing the number of complaints against the department's officers who participated in the experimental group. During the trial, the officers in the experimental group realized a 16.5 percent decrease in the number of complaints made against them. In contrast, the department as a whole realized only a 4.4 percent decrease in the number of complaints made against officers and a 20.3 percent increase in specific use-of-force complaints during the period that included the trial. This equates to a 1.4 percent decrease in total complaints. The RCT's results did not separate complaints into differing categories.[266] The year following the trial, as the LVMPD began fielding more body-worn cameras, specific use-of-force complaints declined 24.6 percent; however, non-force related complaints rose 34.1 percent.[267] This resulted in a 25.3 percent overall increase in the number of complaints made against officers. This is not to imply that the deployment of body-worn cameras caused the increase in non–force related complaints. However, the data suggest that department-wide deployment of the technology did not have the effect that the RCT results predicted.

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[266] Braga et al., *New Findings from a Randomized Controlled Trial*; Collins et al., *Assessment of the Collaborative Reform Initiative*; and Las Vegas Metropolitan Police Department, "2016 Complaints Received."

[267] Collins et al., *Assessment of the Collaborative Reform Initiative*; and Las Vegas Metropolitan Police Department, "2016 Complaints Received."

The LVMPD's body-worn camera RCT was unique in that it included a cost-benefit analysis. The analysis concluded that implementing body-worn cameras would result in a cost savings of an estimated $4–$5 million annually for the department.[268] The estimated savings was predicated on the following: body-worn cameras reduce the number of complaints against officers, and they reduce the cost and time associated with investigating any complaints that are made.[269] However, the research has revealed that although the experimental group realized a reduction in complaints during the RCT, this reduction did not carry over to the rest of the department nor did it continue through the year following the RCT as the LVMPD deployed more body-worn cameras.[270] This information suggests that while the technology may reduce the time and costs associated with complaint investigations, the savings realized by the department will likely be less than the RCT predicts, as body-worn cameras do not appear to reduce the total number of complaints.

Despite these findings, the LVMPD has been able to leverage the technology to increase its transparency, especially in officer-involved shootings. When an officer uses deadly force, department officials are able to quickly ascertain the preliminary facts surrounding the events and present the public with the body-worn camera video footage along with other pertinent information.[271] The public has responded positively to the department's formulized dissemination protocol and its willingness to release body-worn camera footage.[272]

The MPDC body-worn camera RCT concluded that the technology did not have a statistically significant impact on officer use of force. Like the LVMPD's RCT, the MPDC's study compared the experimental group—officers equipped with the technology—to a control group—officers without body-worn cameras. A major difference between the two studies was the size of the sample population. While the LVMPD study

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[268] Zehnder, personal communication; and Braga et al., "The Las Vegas Body-Worn Camera Experiment."

[269] Braga et al., "The Las Vegas Body-Worn Camera Experiment."

[270] Las Vegas Metropolitan Police Department, "2016 Complaints Received"; and Collins et al., *Assessment of the Collaborative Reform Initiative*.

[271] Zehnder, personal communication.

[272] Zehnder.

consisted of only 30 percent of the department's officers, the MPDC study included virtually all of the department's officers.[273] During the same period that the department was conducting its RCT, it experienced a 12.1 percent increase in the use of less-lethal force and a 14.2 percent decrease in the use of deadly force.[274] However, the RCT concluded that these changes were just as likely to occur among officers in the treatment group as they were among officers in the control group.[275] In other words, the presence of body-worn cameras did not appear to have affected the chance of a police–citizen encounter ending with the use of force. Furthermore, the year following the MPDC's department-wide implementation of body-worn cameras, the department had a 35.5 percent increase in the less-lethal use of force and a 16.6 percent decrease in deadly force.[276] As in the LVMPD case, this information does not imply that the presence of the technology resulted in these changes. However, it does support the findings of the MPDC's RCT by showing that the presence of body-worn cameras did not prevent an increase in the overall use of force.

Similar to its findings concerning the use of force, the MPDC's body-worn camera RCT concluded that the technology did not have a statistically significant effect on the number of complaints made against officers.[277] That is to say, the study's findings suggest that officers wearing body-worn cameras were just as likely to have a complaint made against them as were officers not wearing the technology. An analysis of the MPDC's complaint data shows that the department had a 50 percent decrease in the number of specific use-of-force complaints and a 46.2 percent decrease in non–force related complaints from 2008 to 2014, the years prior to the MPDC's body-worn camera RCT. In 2015, the MPDC's specific use-of-force complaints and non–force related complaints both rose approximately 30 percent. However, in 2016, the only full year of the RCT, both

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[273] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras"; and Braga et al., *New Findings from a Randomized Controlled Trial*.

[274] District of Columbia Office of Police Complaints, *Report on Use of Force*.

[275] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

[276] District of Columbia Office of Police Complaints, *Report on Use of Force*.

[277] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

categories of complaints returned to approximately the department's 2014 level. Since the MPDC achieved enterprise-wide body-worn camera implementation at the beginning of 2017, non–force related complaints have risen 55.7 percent while use-of-force complaints have remained roughly at their pre-implementation levels.[278] As mention earlier, the data do not suggest any correlation between body-worn cameras and the increase in non–force related complaints. However, they do suggest that the technology did not successfully reduce the number of complaints any more than previously implemented reformative actions did.

The research in this section has examined the results from two different body-worn camera RCTs. The first RCT concluded that the technology produced positive results while the second RCT found that body-worn cameras did not reduce the department's use of force or the number of complaints made against its officers. In an effort to validate the generalizability of the results of both RCTs, the author gathered data concerning these areas for the years prior to, during, and after both RCTs. When examined in the full context of the respective departments and their police reform measures, the data suggest that body-worn cameras have not been any more successful at reducing officer use of force or complaints against officers than other reformative measures taken by the departments studied. However, in the LVMPD, the technology has shown to aid the department's effort to increase transparency.

C. CBP DISCUSSION

The departments presented in the case studies are similar in that the LVMPD and the MPDC both faced public and political criticism for their use of force and lack of transparency and accountability. This scrutiny forced the departments to undertake measures to reform departmental use-of-force practices and procedures. Among the various measures taken, both departments adopted body-worn cameras. Although their respective RCTs produced differing results, the impact of their actual body-worn camera

[278] District of Columbia Office of Police Complaints, *Annual Report Fiscal Year 2010*; District of Columbia Office of Police Complaints, *Annual Report 2017*; and District of Columbia Office of Police Complaints, *Annual Report 2014*.

implementation has proven similar. This section compares the CBP context with the situations faced by the LVMPD and the MPDC to answer the following research sub-question: Do CBP's conditions more closely resemble those of the departments that have seen improvements from implementing body-worn cameras or those that have not? One can infer the likely impact the technology will have on CBP by examining the results of body-worn camera implementation in departments whose conditions were similar to CBP's.

Organizationally, CBP is different from municipal police departments. It consists of three major operational components—Air and Marine Operations, United States Border Patrol, and the Office of Field Operations—as well as various other supporting components, totaling over 50,000 law enforcement personnel. Each operational component has a distinct mission and operating environment. The agency operates in 20 sectors and 20 field offices throughout the United States as well as approximately 51 foreign counties.[279] This geographic dispersion means that CBP faces challenges associated with operating in multiple jurisdictions, unlike centrally located municipal police departments.

However, CBP has faced many of the same issues as the two departments discussed in the case studies regarding its use of force, specifically deadly force, and agency transparency. In 2010, Anastacio Hernández-Rojas was involved in a physical struggle with U.S. Border Patrol agents and Customs and Border Protection officers at the port of entry in San Ysidro, California. Hernández died during the altercation.[280] In 2012, a video of the incident surfaced showing Hernández facedown, handcuffed while the agents and officers struck him with a baton and used a Taser on him. As a result of the video, Congress began pressuring CBP to look more closely at its use of force.[281] In October that year, CBP Deputy Commissioner David Aguilar initiated two reviews of CBP's use-of-force practices

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[279] "Snapshot: A Summary of CBP Facts and Figures," Customs and Border Protection, accessed August 2, 2017, https://www.cbp.gov/sites/default/files/assets/documents/2017-Jun/CBP-Snapshot-06012017.pdf.

[280] Randal C. Archibold, "San Diego Police Investigate Death of Mexican Man Resisting Deportation," *New York Times*, June 1, 2010, https://www.nytimes.com/2010/06/02/us/02border.html.

[281] Cristina Costantini, "Anastasio Hernandez Rojas Death: 16 Members of Congress Call for Justice," Huffington Post, May 10, 2012, https://www.huffingtonpost.com/2012/05/11/anastasio-hernandez-rojas_n_1507274.html.

and policies. The first was an internal review conducted by the agency's Use of Force Policy Division. The second was an external review conducted by the Police Executive Research Forum (PERF) at CBP's request. At the same time, the Department of Homeland Security (DHS)'s Office of the Inspector General (OIG) began reviewing CBP's use-of-force training programs.[282]

PERF concluded its review of CBP's use-of-force policies and practices in February 2013. PERF had reviewed all of CBP's use of force–related policies and 67 deadly force cases involving the Border Patrol.[283] The OIG released a redacted version of its report in September 2013, focusing on CBP's processes for documenting excessive use-of-force allegations, tracking use-of-force incidents, and delivering use-of-force training.[284] CBP did not publicly release information from its use-of-force review. Overall, the three reviews resulted in approximately 90 recommendations broadly categorized into the following areas: use-of-force oversight, accountability, and use-of-force policy and training.[285] As these reviews progressed, the media increased their scrutiny of the agency's use-of-force practices and lack of transparency.

At the end of 2013, the *Arizona Republic* released the findings of its own investigation into CBP's use of force in a three-part series titled, "Force at the Border." Although the paper acknowledged that most of CBP's officers and agents conducted their duties with restraint, it criticized the agency for a lack of transparency in matters concerning the use of deadly force. The article criticizes the agency's internal discipline process as too secretive because information on punishment handed down for the use of

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[282] Customs and Border Protection, "Use of Force Reviews, Recommendations and Next Steps" (fact sheet, CBP, 2013), https://www.cbp.gov/sites/default/files/documents/Use%20of%20Force%20Two%20Pager-FINAL.PDF.

[283] Police Executive Research Forum, *U.S. Customs and Border Protection Use of Force Review: Cases and Policies* (Washington, DC: PERF, February 2013), https://www.cbp.gov/sites/default/files/documents/PERFReport.pdf.

[284] Office of Inspector General, *CBP Use of Force Training and Actions to Address Use of Force Incidents (Redacted)* (Washington, DC: Department of Homeland Security, September 2013), https://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-114_Sep13.pdf.

[285] Customs and Border Protection, "Use of Force Reviews, Recommendations and Next Steps"; Police Executive Research Forum, *Use of Force Review: Cases and Policies*; and Office of Inspector General, *CBP Actions to Address Use of Force Incidents*.

excessive force is not made public. The authors also criticize the agency for not publicly releasing its use-of-force policy.[286] As reporters Bob Ortega and Rob O'Dell lament, "The lack of transparency goes against the 'best practices' that national police organizations recommend for dealing with deadly-force incidents."[287] CBP responded to the increased public and political focus directed at its use-of-force practices and transparency in a similar fashion as the LVMPD and the MPDC did.

In 2014, former CBP Commissioner Kerlikowske requested that the Homeland Security Advisory Council create a CBP Integrity Advisory Panel to further investigate methods and make recommendations for the agency to increase its transparency and accountability.[288] In March 2016, the panel released its report, which included 53 recommendations—many of which echoed the recommendations from the earlier reports requested by former Deputy Commissioner Aguilar. While the panel's review was underway, CBP began to implement new reform measures to increase its transparency and reduce the agency's number of use-of-force incidents as well as complaints against its law enforcement employees.[289] As indicated in Chapter I, CBP began its second body-worn camera evaluation in mid-2018.[290] Since the evaluation is ongoing at the time of this writing, this work does not discuss the results of CBP's most recent body-worn efforts. The following paragraphs briefly describe the other major reform actions taken by CBP as well as their overall effect on CBP's use of force.

As was the case in both the LVMPD and the MPDC, CBP has revamped its approach to reviewing use-of-force incidents with the intent of increasing use-of-force oversight and accountability. To strengthen the agency's ability to hold its officers and agents accountable, in 2014, DHS authorized CBP to investigate allegations of employee

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[286] Bob Ortega and Rob O'Dell, "Force at the Border," AZ Central, December 16, 2013, http://www.azcentral.com/news/politics/articles/20131212arizona-border-patrol-deadly-force-investigation.html.

[287] Ortega and O'Dell.

[288] Paul Koscak, "Law Enforcement on a Constitutional Scale," Frontline, January 25, 2017, https://www.cbp.gov/sites/default/files/assets/documents/2017-Jan/frontline-vol9-issue1-20170125.pdf.

[289] Koscak.

[290] Customs and Border Protection, "Incident Driven Video Recording System."

criminal misconduct.[291] Traditionally, this authority rests with external entities such as the Federal Bureau of Investigations or local authorities with geographical jurisdiction.[292] This newly delegated authority led to the creation of CBP's use of force incident teams. These teams are responsible for ensuring that CBP use-of-force policy matters are addressed in the investigations led by the federal, state, or local authorities that have principal jurisdiction over the agency's use-of-force investigations.[293] In 2015, the agency implemented a new process to review its use-of-force incidents internally. Two use-of-force review boards were established, one at the local level and one at the national level.[294] The National Use of Force Review Board (NUFRB) reviews all CBP use of deadly force as well as less-lethal force applications that result in serious injury. The Local Use of Force Review Board reviews all other CBP use-of-force incidents.[295] Once the federal, state, or local prosecutors have declined criminal prosecution, the boards review their respective use-of-force incidents to determine whether the application of force complied with CBP policy. The makeup of CBP's NUFRB is similar to that of the LVMPD's and the MPDC's Use of Force Review Boards. CBP's NUFRB includes executives from each of its major operational law enforcement components—the Office of Professional Responsibility (OPR), the Laboratories and Scientific Services Directorate, and the Law Enforcement Safety and Compliance Directorate—and civil rights representatives from both the DOJ

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[291] Customs and Border Protection, "DHS Delegates Criminal Misconduct Investigative Authority to CBP," *CBP Access* 3, no. 12 (September 2014), https://www.cbp.gov/sites/default/files/documents/CBPAccessV3.12_093014.pdf.

[292] Customs and Border Protection, *Investigations into Deaths in Custody and Use-of-Force Incidents: Fiscal Year 2016 Report to Congress* (Washington, DC: Department of Homeland Security, August 17, 2016), https://www.dhs.gov/sites/default/files/publications/Customs%20and%20Border%20Protectiton%20-%20Investigations%20into%20Deaths%20in%20Custody%20and%20Use%20of%20Force%20Incidents_0.pdf.

[293] Customs and Border Protection.

[294] Office of Human Resource Management, *CBP Discipline Overview for Fiscal Year 2015* (Washington, DC: Customs and Border Protection, 2015), https://www.cbp.gov/sites/default/files/assets/documents/2018-Mar/FY15-discipline-report-5-4-17.pdf; and Customs and Border Protection, *Investigations into Deaths in Custody and Use-of-Force Incidents: Fiscal Year 2015 Report to Congress* (Washington, DC: Department of Homeland Security, July 27, 2015), https://www.dhs.gov/sites/default/files/publications/Customs%20and%20Border%20Protection%20%28CBP%29%20-%20Investigations%20into%20Deaths%20in%20Custody%20and%20Use-of-Force%20Incidents.pdf.

[295] Office of Human Resource Management, *CBP Discipline Overview FY15*.

and DHS.[296] In line with the agency's efforts to enhance transparency and build community trust, CBP now publishes the findings and recommendations from the NUFRB on the agency's webpage.[297]

The reformative actions taken by the LVMPD and the MPDC included use-of-force policy changes. Similarly, in 2014, CBP revised its 2010 use-of-force policy. The new CBP policy includes changes that address many of the concerns reported by the various entities during their reviews between 2012 and 2014.[298] The changes in CBP's use-of-force policy were also consistent with those of the police departments featured in the earlier case studies. The 2014 CBP policy includes guidance for officers and agents to use safe tactics to avoid placing themselves in situations that constrain them to use a higher level of force. CBP added new language specifically prohibiting the use of excessive force to the 2014 policy as well.[299] Furthering its efforts to decrease deadly force incidents, the agency has also authorized leadership to mandate that officers and agents carry additional less-lethal equipment based on local operational needs.[300] Along with this, CBP has expanded its less-lethal arsenal, providing its personnel additional means to safely end situations that might have otherwise ended in deadly force.[301] Other changes include requiring reports of all use of force for an agency review, restricting the use of electronic control devices whose use may result in unnecessary injury, and prohibiting firing at fleeing vehicles except when

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[296] "CBP Releases 4 Use of Force Case Summaries following a Review by the National Use of Force Review Board," Customs and Border Protection, April 3, 2018, https://www.cbp.gov/newsroom/national-media-release/cbp-releases-4-use-force-case-summaries-following-review-national.

[297] "CBP Use of Force Case Summaries," Customs and Border Protection, accessed August 11, 2018, https://www.cbp.gov/newsroom/stats/cbp-use-force/case-summaries.

[298] Bob Ortega, "Use-of-Force Policy Tightened for Border Patrol," *Arizona Republic*, May 31, 2014, https://www.usatoday.com/story/news/nation/2014/05/31/use-of-force-policy-tightened-for-border-patrol/9802341/.

[299] Customs and Border Protection, *Use of Force Policy, Guidelines, and Procedures Handbook* (Washington, DC: Customs and Border Protection, 2014), https://www.cbp.gov/sites/default/files/documents/UseofForcePolicyHandbook.pdf.

[300] Customs and Border Protection, *Use of Force Policy, Guidelines, and Procedures*; Ortega, "Use-of-Force Policy Tightened for Border Patrol"; and Rob O'Dell and Bob Ortega, "Border Patrol Faulted for Policy on Less-Lethal Force," *Arizona Republic*, February 16, 2014, https://www.usatoday.com/story/news/nation/2014/02/16/border-patrol-faulted-for-policy-on-less-lethal-force/5520197/.

[301] Koscak, "Law Enforcement on a Constitutional Scale."

deadly force is otherwise warranted.[302] In mid-2014, CBP publicly released its revised use-of-force policy for the first time in the agency's history, further answering the call for more transparency.[303]

CBP has also reformed its use-of-force training practices in ways similar to the LVMPD and the MPDC. The agency now requires all of its law enforcement personnel to receive use-of-force policy reviews each training period.[304] CBP officers and agents now receive training in de-escalation and communication techniques.[305] CBP has increased its emphasis on realistic scenario-based training to enhance the judgment of its officers and agents in use-of-force situations. The agency now trains its personnel in the constitutionality of using force.[306] The agency has also expanded its oversight of training via a field training audit program.[307] The program serves as a continuous assessment of training and use-of-force practices at field locations and aids the agency in determining whether there is a need to make changes to policy, tactics, or equipment.[308]

In addition to publishing its use-of-force statistics and policy, in mid-2015, CBP's Office of Public Affairs formalized a process to release information concerning serious use-of-force incidents publicly. The new proactive communication process involves releasing a public statement within one hour of an incident—after notifying CBP senior

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[302] "Secrecy Lifted from Border Agency's Use of Force," NBC News, May 30, 2014, https://www.nbcnews.com/news/us-news/wake-forest-coach-jamill-jones-pleads-not-guilty-punch-killed-n899506.

[303] Customs and Border Protection, "CBP Releases Use of Force Policy Handbook and Consultant Report," *CBP Access* 3, no. 9 (June 2014), https://www.cbp.gov/sites/default/files/assets/documents/2016-Mar/cbpaccess-v3.09-062714.pdf.

[304] Koscak, "Law Enforcement on a Constitutional Scale."

[305] "Training the Next Generation of Border Patrol Agents," Department of Homeland Security, July 26, 2016, https://www.dhs.gov/blog/2016/07/26/training-next-generation-border-patrol-agents.

[306] Koscak, "Law Enforcement on a Constitutional Scale."

[307] Seth Garfinkel, "Customs and Border Protection's New 'Use of Force' Initiatives Are Welcome First Steps," American Immigration Council Immigration Impact, September 25, 2013, http://immigrationimpact.com/2013/09/25/customs-and-border-protections-new-use-of-force-initiatives-are-welcome-first-steps/.

[308] Customs and Border Protection, "Use of Force Reviews, Recommendations and Next Steps."

leadership—and a follow-up briefing or statement within 12 hours thereafter.[309] This process is a change from the agency's past practice of prohibiting local field leadership from addressing the public after a use-of-force incident.[310] CBP leadership has also taken other measures to make the agency more accessible to the public. For example, the CBP website provides a mechanism for people to file complaints electronically and provide feedback to the agency. Its Information Center has enhanced the agency's capability to communicate with non-English speakers in an effort to increase its responsiveness.[311]

As with the departments in the case studies, this thesis examines CBP's use-of-force statistics to measure the effectiveness of CBP's reform initiatives. However, due to a lack of available information, the author was unable to conduct a comparative analysis based on complaint data as CBP has released complaint statistics for only one year, 2015.[312] Although there have been annual fluctuations in both use of deadly force and less-lethal force, CBP's use of deadly force has trended downward since 2012 while the agency's use of less-lethal force has remained relatively consistent. Figure 10 shows that since CBP began its reform journey, the agency has realized a 69 percent decrease in its use of deadly force. During the same period, the agency's use of less-lethal force has risen 12.1 percent, as depicted in Figure 11.

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[309] Customs and Border Protection, *Performance and Accountability Report Fiscal Year 2016* (Washington, DC: Department of Homeland Security, March 16, 2017), https://www.cbp.gov/sites/default/files/assets/documents/2017-Mar/FY-2016-CBP-PAR-508C.pdf.

[310] Koscak, "Law Enforcement on a Constitutional Scale."

[311] Ronald D. Vitiello, "Border Patrol Committed to Earning Public Trust," *San Diego Union Tribune*, November 24, 2017, http://www.sandiegouniontribune.com/opinion/commentary/sd-utbg-border-patrol-enforcement-20171122-story.html.

[312] Office of Human Resource Management, *CBP Discipline Overview FY15*.

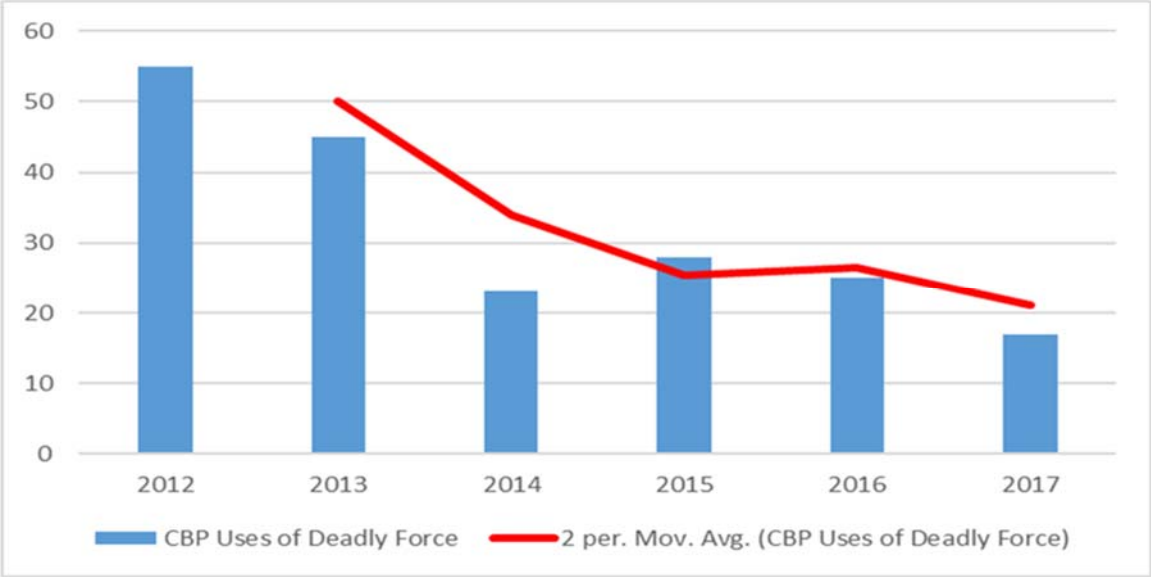

Figure 10. CBP Deadly Force Statistics[313]

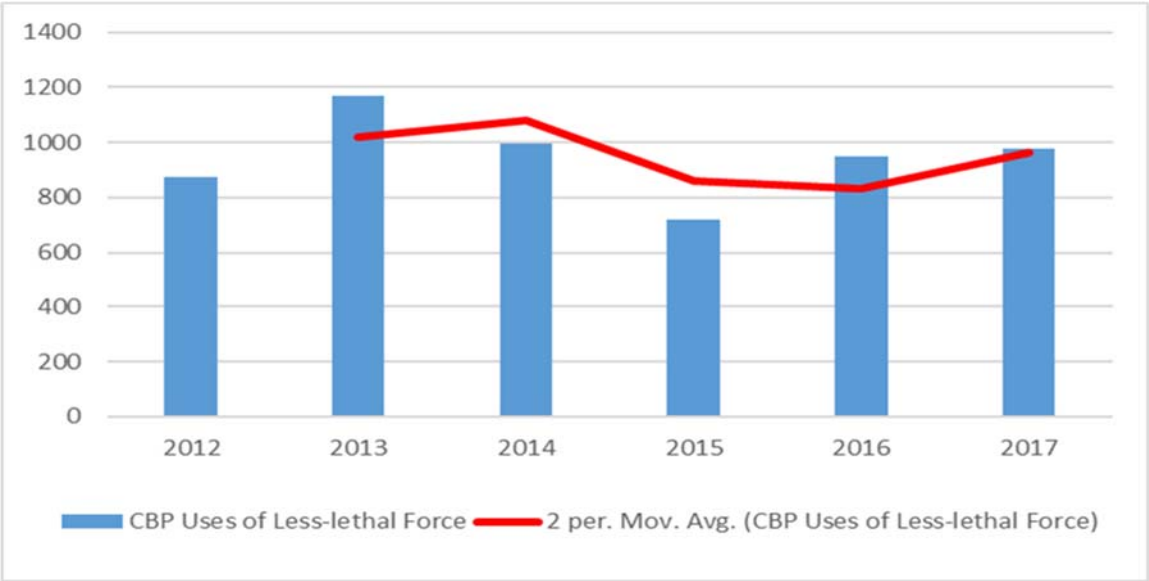

Figure 11. CBP Less-Lethal Force Statistics[314]

[313] Adapted from Customs and Border Protection, "CBP Use of Force Statistics."

[314] Adapted from Customs and Border Protection.

D. CONCLUSION

This chapter has examined the findings from the research on the reformative measures taken by the LVMPD and the MPDC. It has analyzed the impact that the departments' body-worn camera efforts have had on the number of use-of-force incidents and the number of complaints against officers in both departments. The data from those departments suggest that the technology has not been more effective than other police reform measures at reducing the rate at which either of these occurs. The CBP context is similar to those of the LVMPD and the MPDC. Due to increased public and congressional scrutiny of its use-of-force policies and practices, the agency has implemented numerous reform measures similar to those undertaken by the LVMPD and the MPDC to address the use of force—with the exception of adopting body-worn camera technology. These measures have included changes in use-of-force policies, an increased focus on scenario-based training, the implementation of use-of-force review boards, and an increased focus on providing the public timely information regarding use-of-force incidents, specifically the use of deadly force.

CBP's results have been similar to those observed in the MPDC although CBP has not implemented a body-worn camera program. As observed in the MPDC, CBP's use-of-force data suggest that these measures have had a positive impact on decreasing CBP's use of deadly force.[315] However, the use of less-lethal force has increased in both agencies.[316] The LVMPD experienced different results. In 2017, after fully implementing its department-wide body-worn camera program, the LVMPD experienced a spike in deadly force incidents.[317] However, the department has realized a significant reduction in less-

[315] PolicyLink and Advancement Project, *Values, Leadership, and Sustainability*; Metropolitan Police of the District of Columbia, *2000 Annual Report Force Investigation Team*; Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*; District of Columbia Office of Police Complaints, *Report on Use of Force*; and Customs and Border Protection, "CBP Use of Force Statistics."

[316] Customs and Border Protection, "CBP Use of Force Statistics"; Bromwich, Doherty, and Nowicki, *The Durability of Police Reform*; and District of Columbia Office of Police Complaints, *Report on Use of Force*.

[317] Office of Internal Oversight, *Use of Force Statistical Analysis*; Fachner and Carter, *Final Assessment Report of the LVMPD*; and LVMPD, "Fasulo Briefs the Media."

lethal use of force.[318] While CBP has not consistently published complaint statistics, the overall number of complaints has risen for both the LVMPD and the MPDC.[319]

[318] Office of Internal Oversight, *Use of Force Statistical Analysis*; and Fachner and Carter, *Final Assessment Report of the LVMPD*.

[319] Collins et al., *Assessment of the Collaborative Reform Initiative*; Las Vegas Metropolitan Police Department, "2016 Complaints Received"; District of Columbia Office of Police Complaints, *Annual Report Fiscal Year 2010*; District of Columbia Office of Police Complaints, *Annual Report 2014*; and District of Columbia Office of Police Complaints, *Annual Report 2017*.

VI. CONCLUSION AND RECOMMENDATIONS

As stated in Chapter I, CBP is at a decisional crossroads regarding body-worn camera implementation. In an effort to support the decision-making process of CBP's senior leadership concerning this issue, this thesis set out to examine whether the efficacy of the technology at reducing police use of force and complaints against officers could be, at least partially, attributed to other police reform measures. To assess the technology's performance within the broader context of police reforms and beyond the results of body-worn camera randomized controlled trials (RCT), the author used a comparative case study methodology to examine the technology within police reform context of two major United States police departments: the Las Vegas Metropolitan Police Department (LVMPD) and the Metropolitan Police of the District of Columbia (MPDC). Each of these departments has undergone extensive reformative processes and have achieved department-wide body-worn camera deployment. Prior to realizing full-scale deployment of the technology, each department conducted a body-worn camera RCT. The LVMPD's RCT estimated that body-worn cameras would reduce the department's use of force and complaints against its officers while the MPDC's RCT predicted that the technology would not make a statistically significant difference in these areas. Moving the body-worn camera discussion beyond the results observed in the respective RCT's, the author assessed the impact of the departments' other reformative measures to address these areas of concern prior to body-worn camera implementation. Next, the author assessed the combined and continued effect of the reformative measures and body-worn cameras in the same areas of concern. The results may surprise many law enforcement experts.

The findings presented in this work do not support the estimations of the technology's effectiveness made in the 2012 RCTs conducted by Ariel et al. and Braga et al. or the others referenced in Miller and Toliver's and White's reports. These studies concluded that body-worn cameras reduce the use of force and complaints against

officers.[320] However, the findings of this thesis do support Yokum, Ravishankar, and Coppock's RCT conclusions, which found that the technology does not have a statistically significant effect on the use of force or complaints made against officers.[321]

This thesis contributes to the contemporary literature concerning body-worn cameras by examining the technology's impact on the use of force, complaints against officers, and department transparency in the broader context of police reforms beyond the results of body-worn camera RCTs. This information may be useful to police executives, including CBP's senior leadership, when examining the possible benefits of adopting or continuing the use of body-worn camera technology.

A. CONCLUSION

This research first sought to identify conditions under which body-worn cameras reduce the use of force and complaints against officers and increase an agency's transparency. Based on information from RCTs discovered in the literature review, the author fully expected to find a set of conditions in which body-worn cameras proved effective at achieving or contributing to a reduction in the number of use-of-force incidents and complaints against officers and an increase in police transparency. Conversely, the author also expected to find a set of conditions in which the technology was not effective in these areas of concern. Surprisingly, this was not the case. The findings presented in this work suggest that body-worn cameras are no more effective than other reformative measures taken to address the use of force or complaints. In other words, this research suggests there is no causal relationship between body-worn camera usage and the number of use-of-force incidents or complaints within a department. However, the LVMPD appears to have been successful in leveraging the technology in an effort to increase the department's transparency, but body-worn cameras are only one aspect of its formalized and proactive public use-of-force information release policy.

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[320] Miller and Toliver, *Implementing a Body-Worn Camera Program*; White, *Assessing the Evidence*; Ariel, Farrar, and Sutherland, "The Effect of Police Body-Worn Cameras; and Braga et al., *New Findings from a Randomized Controlled Trial*.

[321] Yokum, Ravishankar, and Coppock, "Evaluating the Effects of Police Body-Worn Cameras."

The author's research shows that CBP's reformative measures closely resemble those of both departments examined in the case studies. The agency has taken many of the same reformative steps that the LVMPD and the MPDC have taken and has realized similar results. The main research question of this thesis was simple: Should CBP adopt the use of body-worn cameras? The research indicates that the answer to this over-arching question is as follows: It depends on CBP's reasoning for adopting the technology.

According to the findings from the case studies as well as the similarities among CBP's reformative initiatives and those of the departments studied, body-worn cameras are not likely to reduce CBP's number of use-of-force incidents. Similarly, it is not likely that the technology will reduce the number of complaints made against CBP law enforcement personnel. Hence, if CBP's reasoning for adopting the technology is to reduce the use of force and complaints, the agency may not realize the desired results. However, if the agency's reasoning for adopting body-worn cameras is to increase its transparency, the answer to this question is *possibly*. As demonstrated by the LVMPD case study, departments have used the technology to provide more information to the public regarding use-of-force events. When body-worn camera footage has been released in a timely fashion and in conjunction with a formalized public information release program, the technology has shown promise in increasing a department's transparency. Therefore, to realize a benefit in transparency, CBP will likely have to formalize a process for the timely release of body-worn camera footage of use-of-force events.

B. LIMITATIONS

Although the findings discovered in the course of this research project are compelling, this work is not without its limitations. The first limitation was the amount of available use-of-force and complaint data following body-worn camera implementation from the two departments examined in Chapters III and IV. No more than one year's worth of data was available for either department since their body-worn camera implementation began. This thesis attempted to mitigate the effect of this short observation period by employing a moving average trend line. However, a more definitive conclusion might have

been possible if a longer post-implementation period had been available. This abbreviated period of observation has the potential to affect the internal validity of the results.

Another limitation of this study was the inaccessibility of non-public data. The author attempted to mitigate the lack of public information by arranging interviews of key personnel from the LVMPD and the MPDC during the research-planning phase. However, when contacted for the actual interview, the majority of those who had previously agreed declined to speak on the record. This forced the researcher to focus primarily on open-source information. Another hindrance to data collection was that CBP does not consistently publish its complaint data. This prevented an analysis of the impact of CBP's reform measures in this area of concern. Due to the author's employment position, a more in-depth CBP discussion would have been possible; however, that would have required this work to be restricted to CBP distribution only. In an effort to contribute to the broader law enforcement community's body-worn camera discussion, the author opted to avoid using any CBP sensitive information.

A third limitation associated with this research was the number of cases studied. This work considered two departments based on the results of their body-worn camera RCTs. However, many other large police departments have also gone through reformative processes and have at least partially implemented body-worn camera technology. An examination of these other large departments would help better understand the generalizability of the findings presented in this thesis.

A final limitation of this research is that it did not explore the reasoning for the increase in the overall use of force in the MPDC after its body-worn camera implementation. For example, the MPDC experienced an increase in the use of less-lethal force after fully implementing the technology. There are a number of possible reasons for this increase. The first possibility is that officers reported the use of force that they otherwise would not have because they were aware of the video evidence provided by the technology. A second possible reason is that the officers felt more confident in using force because the camera captured the reasons for the officer resorting to it. The author attempted to mitigate these possibilities by separating the use of deadly force, the most serious type of force, from less-lethal force. Another possible reason for this fluctuation is that changes

in the number of use-of-force incidents might be affected by other factors such as socio-economic trends or even normal variations. The latter seems plausible as the LVMPD's use of less-lethal force remained constant after the department implemented the technology, but its use of deadly force increased.

C. FUTURE RESEARCH

Given the findings and limitations associated with this thesis, there are prime opportunities for future research. Future researchers may wish to examine body-worn cameras in the context of other police reform actions in a greater number of departments. Increasing the number of departments in the case studies would aid in determining the generalization of the findings presented in this work. This new research may indicate whether the two departments observed in this thesis are truly representative of the larger law enforcement community's experience with body-worn cameras or if they are outliers.

Perhaps, in addition to the above suggestion, researchers may wish to further test the author's findings by revisiting these same departments after a longer maturation period of body-worn camera implementation. This will establish whether the findings presented in this work are enduring or simply a result of the natural rise and fall of the use of force and complaints within the practice of law enforcement.

Future research based on gathering and analyzing use-of-force and complaint data from a greater number of departments or from a longer period following implementation will further contribute to the national body-worn camera discussion by testing the generalizability of the findings presented in this thesis.

D. RECOMMENDATIONS

Based on the impact of body-worn cameras in the areas of concerns identified in this thesis, the findings do not support the adoption of the technology by CBP. However, it would be naïve to ignore the external pressures and expectations being placed on the

agency to do so.[322] It would be equally imprudent not to acknowledge the fact that body-worn cameras—although perhaps erroneously—are now seen among the best practices of policing.[323] In recognition of the fact that the decision to implement body-worn cameras may not be based solely on the technology's proven efficacy, this thesis makes the following recommendations if CBP decides to move forward with the implementation of body-worn camera technology.

Recommendation 1—This research has shown that body-worn cameras may not have the impact expected by many of the stakeholders. Due to costs associated with the technology, CBP should ensure that it properly manages the stakeholders' expectations. The agency should clearly express its reasoning for implementing a body-worn camera program and be realistic as to what it expects from the technology. As seen in the cases presented in this work, body-worn camera implementation does not necessarily equal a reduction of use of force and complaints. Non-governmental organizations, political leaders, the public, and internal stakeholders should be made of aware of this fact. Being transparent about the expense and possible benefits of technology serves all parties' interests.

Recommendation 2—This thesis has shown that CBP may be able to leverage body-worn camera technology to increase the agency's transparency. To accomplish this goal, CBP should examine the way that the LVMPD uses body-worn camera footage in conjunction with a proactive public information release process. CBP will need to be willing and able to show the public and other concerned parties videos of use-of-force incidents in a timely manner. The development of a process of this type may require CBP to establish agreements with other investigatory entities, as other agencies are often involved in investigating CBP's use of force.

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[322] American Civil Liberties Union, "CBP Body-Camera Announcement Fails"; Official Website of Congressmember Adriano Espaillat, "ICE and CBP Body Camera Legislation"; and House Committee on Appropriation, *DHS Appropriations Bill, 2018*.

[323] American Civil Liberties Union, "Implementing Law Enforcement Best Practices for Our Nation's Biggest Police Force (CBP)" (fact sheet, ACLU, November 5, 2015), https://www.aclu.org/fact-sheet/fact-sheet-implementing-law-enforcement-best-practices-our-nations-biggest-police-force.

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