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Body-worn cameras and domestic and family violence: Critical reflections

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Editorial Introduction

Police agencies within Australia—and indeed, those globally—are increasingly using body-worn cameras (BWCs) to respond to domestic and family violence (DFV). BWC technology could improve state responses to DFV, enhance police accountability and reduce victim/survivor distress during DFV responses. However, the limitations of this technology must be accounted for and examined to identify the effects and outcomes of BWCs. This paper critically reflects on the potential benefits and pitfalls of BWCs and identifies future directions in BWC research.

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Introduction

Globally, police agencies are embracing BWC devices, which are video recorders affixed to an officer's vest, cap or sunglasses (Harris, 2020; Iliadis et al., in press-b). DFV incidents comprise a high proportion of police call-outs and frequently feature in generalist BWC applications in Australia. BWCs can be used to take digitally recorded evidence-in-chief from victim/survivors (either at the scene or a police station) and to record evidence at the scene of a call-out. Some jurisdictions have DFV-specific initiatives, with BWC procedure and practice guidelines developed to respond to this harm. However, there has been little assessment of BWC use in DFV contexts, including in both generalist and specialist[1] police operations, resulting in a knowledge deficit of how BWCs might help or hinder DFV prevention and regulation (Harris, 2020).

This paper provides an overview of the potential benefits, limitations and effects of BWCs in responses to DFV. It highlights the need for further research and evaluation of BWC use—including considering differential effects and evaluating various perspectives and experiences, such as those involving police, DFV stakeholders and, importantly, victim/survivors—to realise the true merits and possible adverse effects of this technology.

There are gendered dimensions to DFV: women are over-represented as victim/survivors, and men as perpetrators. Aboriginal and Torres Strait Islander communities, people with disabilities, pregnant women, women in non-urban locations and LGBTQIA+ individuals also record high victimisation rates (Tayton et al., 2014). We therefore contend that an intersectional lens is vital when examining the perceptions, experiences and effects of BWCs.

[1] 'Generalist' refers to BWCs that are deployed for all frontline policing, and 'specialist' refers to BWC initiatives that are specifically focused on DFV.

BWC deployment by Australian police

There is great variation in the protocols and guidelines for BWC use internationally, which means analyses and comparisons can be challenging. Not all BWC policies are publicly available, but we know that there are notable differences in data retention and access to footage, opportunities for citizens to review recordings, protections to safeguard BWC misuse or alteration of files, and biometric search functions enabled by police agencies (The Leadership Conference on Civil and Human Rights, 2017). Significantly, officer discretion in deployment and the protections afforded to vulnerable persons are not uniform, even at a national level. Some Australian jurisdictions require a victim/survivor's consent to record a DFV call-out, while others do not (Harris, 2020; Iliadis et al., in press-b). Differences in DFV legislation, procedures and training also affect BWC applications and footage interpretations. Organisational cultures and operations are important to consider but are not monolithic or unchanging. For instance, deviations in police procedure exist not only between jurisdictions but also within regions, including across urban and non-urban locations. Differential responses to police call-outs are also influenced by internal and external factors, such as police culture and the officers' rapport with community members (Harris, 2020).

To date, there have been few evaluations of BWC initiatives in Australia. Measures of 'success' and effectiveness in DFV settings have typically focused on whether BWCs have increased guilty pleas or convictions and reduced burdens on police and the courts. Under the auspices of the New South Wales Police Force, institutional reviews (conducted in 2015 and 2016), were not publicly released. An external study by Yeong and Poynton (2017) indicated that BWC footage had not significantly affected conviction rates or guilty pleas. In contrast, an assessment by BWC manufacturer Axon (2017) for the Queensland Police Service reported that BWC footage had contributed to a 60% reduction in summary court hearings. By adopting a different lens and dataset, a Victorian investigation consulted members of police, members of the judiciary and the DFV sector reported 'a general consensus' that BWC technology 'improves frontline responses' to DFV, including for victim/survivors (McCulloch et al., 2020, p. 3).

Capturing the dynamics, effects and perpetrators of DFV

State agents have claimed that BWC footage can provide an objective account of an incident and the accused's behaviour and its effects on victim/survivors, including any collateral damage to property (Harris, 2020). There may be merit to this claim, but we must acknowledge that technical and practical factors, such as divergence in DFV procedures and BWC use across locations, influence how BWC footage is interpreted and understood. Differences in ideological, cultural, political and social beliefs also guide cognitive biases, mental frameworks and identity, which means that no two people will view BWC footage in the same way (see Stoughton, 2018; Taylor, 2016; Wasserman, 2015, as cited in Harris, 2020). Further, BWCs do not strictly replicate what those on the scene witness or experience. Human eyes have a smaller 'field of view' than BWCs, and BWCs have a larger effective (focused) view (Stoughton, 2018). Factors such as 'length, clarity, lighting, distance, angle, scope, steadiness, manner of shooting, [and] quality' (Wasserman, 2015, p. 840), as well as the speed and amount of movement at a scene, also shape how footage is comprehended (Stoughton, 2018).

BWCs may document harm, but it is possible that not all forms of violence are documented. Physical abuse and its effects may be seen, but non-physical abuse—including emotional, psychological, financial, technological, sexual abuse—and its effects and legacies are difficult to capture. Our forthcoming work (Iliadis et al., in press-a) also outlines how this issue is further complicated by considering that BWCs typically capture only discrete incident(s) rather than the ongoing and nuanced effects of DFV. For example, in perpetrators' attempts to entrap and disempower victim/survivors, they subject their target to sustained campaigns of coercive and controlling behaviours without respite. This behaviour can also involve managing their image when police attend a DFV call-out to deny or downplay the severity of their actions or to falsely contend that the victim/survivor is the primary aggressor. These behaviours cannot be documented in a singular BWC recording (Harris, 2020; Johnson, 2010; Stark, 2007).

Idealised constructs of victim/survivors may also influence how BWC footage is interpreted (Harris, 2020; Harris et al., in press). Duggan (2018, p. 159) has cautioned that those who do not conform to 'dominant myths and stereotypes' may not 'be deemed worthy of criminal justice recognition and intervention in the first place'. A lack of education about the dynamics of DFV and its manifestations can also result in police wrongly identifying victim/survivors as perpetrators in circumstances in which they might use violent resistance or self-defence (Harris, 2020; Hester, 2010; Johnson, 2010). The effects of this are particularly notable for black women, First Nations women, women of colour, women with

disabilities and immigrant women who are disproportionately criminalised, especially in locations with pro- and dual-arrest mandates (Larance & Miller, 2017). Thus, awareness of how perpetrators endeavour to manage their image and deny, minimise, excuse and justify their actions while interacting with police and judicial officers is vital (Bancroft, 2002; Douglas & Goodmark, 2015).

Net-widening and criminalisation are also issues that warrant attention, as what is captured on BWC footage—illegal materials in the home, for instance—may result in charges issued against victim/survivors (McKay & Lee, 2019). Scenes may also be used to cast doubt on victim/survivors' ability to parent, which may affect custody arrangements and even facilitate the removal of children. These consequences are exacerbated for certain communities and individuals, particularly First Nations women (Harris, 2020; Murphy, 2015).

Brain injury and trauma

Scholarship has revealed that high rates of DFV victim/survivors have brain injuries (Baxter & Hellewell, 2019) and experience trauma (Harris, 2020). These harms can affect concentration, communication capabilities, emotional regulation and wellbeing (Nemeth et al., 2019). When this is observed in BWC footage, it can provide evidence of the short- and long-term consequences of violence. Unfortunately, victim/survivors have lamented that the neurological and psychological effects of DFV are commonly not recognised by police or judicial officers (Harris, 2020). Consequently, the presentation of victim/survivors in BWC testimony and any deviations from statements in court appearances may be regarded as unreliable, inaccurate or untruthful (Epstein & Goodman, 2019; Harris, 2020). This further intensifies the barriers experienced by women in the justice system.

Accountability, transparency, and procedural fairness

The victim/survivors we consulted believe that BWCs might discourage, or be used to regulate, police *actions* (misconduct). Some victim/survivors told us they are concerned with officers' *failure to act* on DFV call-outs and on breaches of protection orders (especially when non-physical harm is disclosed, when officers have a relationship with the perpetrator or when the victim/survivor is viewed as 'other' or an 'outsider'); therefore, we contend that BWCs might reduce police *inaction* (Harris, 2020). If BWC use addresses police action and inaction, BWCs may improve victim/survivors' experiences of and confidence in the justice system and, in doing so, facilitate greater engagement with police and courts. Our surveys of the Western Australian Police Force and Queensland Police Service reveal that, in line with the literature, officers are generally optimistic that BWCs can boost transparency, accountability and public perceptions of procedural fairness in police decision-making (Iliadis et al., in press-b). Like Buchanan and Goff (2019), however, we caution that BWCs alone are unlikely to lead to substantial change in these areas, especially when an organisation's culture and leadership can support police actions or inactions in deference to legal rules, established norms and protocols.

Alleviating victim/survivor distress

Some police and judicial officers maintain that when BWCs are used, there is less reliance on victim/survivor testimony in court, which may alleviate their distress in formal responses to DFV (Harris, 2020). Given that in most evaluations, those experiencing violence are not consulted, this is difficult to assess. Justice agents have also suggested that when video statements are provided, it is difficult for perpetrators to pressure victim/survivors to drop cases or for victim/survivors to recant (see Harris, 2020). Proceeding with a case in the 'best interests' of a victim/survivor has typically been framed positively. However, there are many reasons not to pursue a protection order or a breach of an order.

Victim/survivors may want to stay with the perpetrator or maintain the family structure, fear not being believed or fear that there is insufficient evidence of DFV, be uncomfortable with public disclosure, perceive formal responses to DFV as flawed or inappropriate, or want to avoid criminalisation of the perpetrator. Moreover, victim/survivors may feel that their safety will be compromised during an investigation or prosecution. Sadly, these fears are not unfounded, as the risk to victim/survivors is heightened when they seek to regulate DFV and separate from an abusive partner (Harris, 2020; Iliadis et al., 2019). If cases are progressed and 'reluctant witnesses' give evidence contrary to that shown in BWC files, these witnesses could be prosecuted for perjury (Douglas & Goodmark, 2015; Goodall, 2007). There are many dangers in removing victim/survivor choice and agency in making and using recordings, including that they may elect not to seek assistance with addressing future incidences of DFV (Morrow et al., 2016.

Future directions

While BWCs have been promoted and embraced by Australian police agencies and may offer a range of potential benefits in response to DFV, their limitations should be understood and acknowledged. Considering the variation in DFV policies and procedures across Australian jurisdictions and officers' differential world views, BWC deployment does not encompass a uniform or consistent approach (Iliadis et al., in press-b). Thus, ongoing investigation of BWCs, including the potential for any adverse effects, is necessary. A holistic examination of BWCs, underpinned by the voices of police, DFV stakeholders *and* victim/survivors, will further the knowledge of the merits, risks and potential of BWCs in DFV responses, including the ability of BWC use to prioritise victim/survivor safety and wellbeing.

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