The Ethics of Body Worn Cameras

A Prosecutor’s Perspective

Work Load Effect on Competent and Diligent Representation
Evidence.com and Data Flow Management
Rules of Professional Responsibility 1.1, 1.3 and 5.1
LEO 1798
Two Partial Solutions
   Efficiency-The Sharing Agreement & LEO1864
   Personnel- State Funded (Compensation Board)
   Locally Funded (Budget)

Duties to Victims, Witnesses, and Other Third Parties
Va Code §§19.2-11.01, 19.2-11.2
Rule of Professional Responsibility 4.4

Obligation to Disclose Exculpatory, Mitigating and Discoverable Material
Rule of Professional Responsibility 3.8 (d)

Summary of Prosecutor’s Ethical Duties
James McCauley, Ethics Counsel for the Virginia State Bar
“The Brady Rule and the Prosecutor’s Ethical Duty to Disclose Exculpatory Evidence”

A Defense Attorney’s Perspective

The Duty to Investigate /


Sixth Amendment - Rights of Accused in Criminal Prosecutions
In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal jus-
tice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence.

The key is strategic decision-making: an attorney can either make a strategic choice after thorough investigation, or can make a strategic choice that limited investigation is reasonable, given the facts and circumstances of the particular case.

The first Supreme Court decision to find ineffective assistance of counsel under the two-prong Strickland standard, and it did so based on a failure to undertake reasonable investigation.

The issue was "not whether counsel should have presented a mitigation case" but rather "whether the investigation supporting counsel's decision not to introduce mitigating evidence of Wiggins's background was itself reasonable." The Court measured reasonableness against "prevailing professional standards," and found that counsel's investigation fell short.

American Bar Association Standards for Criminal Justice 4-4.1
Duty to Investigate and Engage Investigators

Virginia Rules of Professional Responsibility 1.4, 1.16, LEO 1305

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