

CHAPTER 21

BODY-WORN CAMERA PROGRAM

21-1 PURPOSE

To enhance transparency and accountability in relation to public trust, this chapter will establish policies and procedures for the AOC OIG Body-Worn Camera (BWC) program. AOC OIG Special Agents will use BWCs during preplanned law enforcement activities (e.g., a planned execution of a search or arrest warrant) to promote the collective safety and security of the general public and government personnel at the scene. At the direction of the AIGI, Dep IG or IG, and in consultation with the Counsel to the IG, BWCs may also be used to record witness or subject interviews.

21-2 SCOPE

This policy applies to the use, handling and review of BWCs and/or BWC recordings by any AOC OIG employee.

Only Office of Investigations Special Agents are authorized to operate an AOC OIG BWC.

The deployment of BWCs does not supersede existing OIG policy regarding interviews or evidence collection (e.g., the use of surreptitious recording devices in undercover operations, the use of surreptitious recording devices in consensual monitorings, overt recordings during interviews).

21-3 ROLES AND RESPONSIBILITIES

- A. BWC Program Manager (BWC PM): The AIGI will assign a SA to act as the BWC PM. Under the direction of the AIGI, the BWC PM is responsible for the overall management and oversight of the BWC program. Among other duties, the BWC PM will:
- (1) Provide daily management of the BWC program
 - (2) Oversee implementation of all SA training that covers the proper use and operation of the BWC as well as compliance with privacy and civil liberties laws
 - (3) With the AIGI, periodically review BWC recordings to evaluate the quality of the audio and video recordings to ensure SAs are properly operating BWCs in the manner intended by this program

- (4) With the AIGI, annually coordinate with the Counsel to the IG to assist with privacy reviews
 - (5) Annually coordinate with the OIG Records Liaison Officer (RLO) to ensure compliance with record-related laws, regulations and policies
 - (6) Account for the BWCs annually as part of the Technical Operations Equipment inventory
- B. AIGI: The AIGI supervises the BWC program. The BWC PM reports to the AIGI.
- C. On-Scene Supervisor (OSS): The OSS is the OIG supervisor who is responsible for directing when BWCs shall be activated and when BWCs shall be deactivated on an enforcement operation. Typically, the OSS is the AIGI or the lead on-site SA. This responsibility shall be discussed and identified at the preoperational briefing. For every enforcement operation where SAs are present, there shall be a designated OSS.
- D. Firearms Manager (FM): The FM is responsible for the administration of the Use of Force (UOF) program. The FM oversees the required annual BWC familiarization training as part of the UOF/firearms program for AOC OIG SAs. The FM is also responsible for ensuring all SAs receive this required annual training.
- E. SAs: For purposes of this policy, the term SA refers to all personnel in the 1811 job series, regardless of the titles or positions they hold.

21-4 TRAINING

To ensure the proper use and operation of BWCs, as well as maintain compliance with privacy and civil liberties laws, SAs must establish and maintain proficiency and knowledge related to BWC deployment. Training for BWC deployment consists of three parts:

- A. Initial Training (Use/Laws): Prior to the deployment of BWCs, the SA must complete initial training to ensure the proper use and operation of the BWC, as well as compliance with privacy and civil liberties laws. The BWC PM administers and/or coordinates this initial training. The BWC PM will ensure these records are maintained in each SA's training file.
- B. Annual Training (UOF/Firearms): SAs must complete BWC familiarization annually in conjunction with UOF and firearms training to maintain proficiency in the use of BWCs and ensure continued functionality of the devices. The FM is responsible for coordinating and overseeing this training.

- (1) The FM must document this annual BWC familiarization training in each SA's training file.
 - (2) If SAs are unable to complete the required scheduled training, the FM shall find approved alternative training.
 - (3) If SAs fail to complete the annual BWC training, the FM shall notify the AIGI of the reason why primary and alternative training was not completed. The SA shall not participate in enforcement operations until the required annual training is completed.
- C. Periodic Refresher Training (Use/Laws): SAs must receive periodic refresher training, typically during in-service training, to ensure the proper use of BWCs as well as compliance with privacy and civil liberties laws. The BWC PM will administer and/or coordinate this periodic refresher training and ensure these records are maintained in each SA's training file.

21-5 BWC EQUIPMENT

- A. Assignment: BWCs will be secured and maintained by the BWC PM. After completing the initial training, SAs will obtain a BWC from the BWC PM for any preplanned enforcement operation described in this policy. The BWC PM will maintain a log of the following information each time a BWC is assigned for use: the name of the SA, the serial number of the device, the dates taken and returned and the case number of the operation. The BWC PM will ensure each BWC is returned in working order.
- B. Inventory Report: The BWC PM shall account for the BWCs annually as part of the Technical Operations Equipment inventory.
- C. Use and Maintenance: SAs shall only use BWCs issued by the OIG. SAs will exercise reasonable care when using BWCs to ensure their proper functioning. SAs shall ensure the BWC is fully charged before and during its deployment. SAs shall notify the BWC PM of any equipment malfunctions as soon as possible.
- D. Storage: When assigned to SAs, BWCs shall not be left unsecured while in the office, at home or when traveling. Unattended BWCs shall be locked in a secure manner.
- E. Loss or Theft of Equipment: SAs shall report the loss or theft of a BWC to the AIGI as soon as possible after the discovery of the loss or theft. In the case of theft, the SA shall report the incident to police in the appropriate jurisdiction within 24 hours of the discovery of the theft and ensure the BWC is entered into

NCIC as stolen property. The SA shall provide a copy of the police report and NCIC number to the BWC PM.

21-6 BWC ACTIVATION, DEACTIVATION AND PLACEMENT

SAs shall wear and activate OIG-issued BWCs for the purposes of recording their actions during enforcement operations, consistent with the following guidance.

A. Activation of BWCs:

- (1) **Enforcement Operation:** BWCs shall be activated by all participating SAs upon approaching a subject or premises during a planned enforcement operation. The OSS shall provide guidance during preplanning briefing and the operation regarding activation and deactivation.
- (2) **Potential UOF during an Enforcement Operation:** If, while wearing a BWC for an enforcement operation pursuant to this policy, the BWC is approved for deactivation and an SA, thereafter, encounters an individual who is uncooperative, violent, assaultive, or discussing criminal conduct that, in the SA's judgement and consistent with his/her training and experience, could lead to the use of physical or deadly force or be relevant to the investigation, the SA shall activate and record with his/her BWC as soon as it is safe and practical to do so.
- (3) **Interviews during an Enforcement Operation:** During arrests and search warrants, a BWC may be used to record an interview with an arrestee or detainee.
- (4) **Failure to Activate or Unauthorized Termination of Recording:** An intentional failure to activate the BWC or the unauthorized termination of a BWC recording may result in disciplinary action and/or adverse action.
- (5) **Insufficient Supply of BWCs:** If there are not enough BWCs available for SAs at the time of the preplanned operation, SAs may participate in the planned arrest or search, but the insufficient supply of BWCs must be documented on the Post-Operational Memorandum of Activity (MOA).

B. Deactivation of BWCs:

- (1) **Enforcement Operation:** BWCs shall be deactivated by SAs only upon the direction of the OSS when he/she determines at his/her discretion that the scene is secured. For the purpose of this policy, the term "secured" means that the scene is safe and under law enforcement control.
 - (a) **Search Warrants:** When executing a search warrant, the OSS may authorize SAs to deactivate their BWCs once the location being

searched has been secured and all individuals present have been searched, as appropriate. The OSS will use his/her discretion to determine when team members conducting perimeter security during the execution of the warrant may stop recording.

- (b) **Planned Arrests:** When executing an arrest warrant or arresting an individual during the execution of a search warrant, the OSS may authorize the deactivation of most BWCs once he/she has determined that the scene is secure and any arrestees are handcuffed and placed in the transport vehicle(s). While on the scene of an arrest and during prisoner transports from the scene of an arrest, SAs must continue to wear their BWCs and leave them in the Ready (Buffering) or equivalent mode.

(2) **Exceptions for Deactivation:**

- (a) **BWCs Have a Limited Battery Life:** The OSS may authorize SAs to deactivate their BWCs if an enforcement operation is of such a duration that BWCs need to be deactivated to conserve power and/or for temporary storage.
- (b) **Medical and Personal Matters:** An SA may deactivate his/her BWC at any time the SA needs to obtain emergency medical attention. Under limited circumstances, an SA may deactivate his/her BWC to attend to an urgent personal matter that takes him/her away from a planned operation, such as using the restroom.

C. **Placement of BWCs:** SAs shall ensure the BWC is not obstructed by clothing or other objects. SAs should seek cover and concealment and use proper tactics to ensure their safety while wearing the BWC even if doing so obstructs the BWC's coverage.

- (1) **BWCs with Body Armor:** If a tactical ballistic vest (i.e., body armor) is worn, the BWC shall be worn on the outside/front of the body armor.
- (2) **BWCs without Body Armor:** In the event a BWC is deployed when body armor is not worn or body armor is worn under clothing, the BWC shall be secured to the SA's outer clothing, lanyard or belt.

21-7 ENFORCEMENT OPERATIONS PREPLANNING AND POST-OPERATIONS SUMMARY ACTIVITIES

A. **Preoperation Planning and Briefings:** Prior to conducting a law enforcement operation, the SA leading the enforcement operation will adequately brief ("prebrief") all members of the search or arrest team by detailing the planned use

of the BWCs. All SAs who are issued BWCs and who are expected to activate them during the enforcement operation must receive the operation briefing.

- (1) Joint Operations: When conducting enforcement operations with a partner law enforcement agency that has an established BWC program, SAs shall comply with AOC OIG's BWC policy. The AOC OIG OSS overseeing the operation shall notify the AIGI prior to the operation if there are any unresolved conflicts regarding the BWC deployment.
 - (a) When conducting an enforcement operation with a partner law enforcement agency, the designated AOC OIG OSS shall discuss BWC deployment during the joint operation with the partner agency's team leader and/or team members prior to the enforcement operation. The discussions shall include briefing the partner agency on the AOC OIG BWC policy and reviewing the partner agency's BWC policy.
 - (b) Absent prior approval from the AIGI, AOC OIG SAs will follow procedures set forth in this AOC OIG policy. These discussions will be documented in the Operational Plan or a memorandum. All forms shall be maintained consistent with OIG's case management policies.
- (2) Undercover Personnel: As applicable, the operational briefing shall include a discussion of any steps that can be taken to avoid recording undercover personnel. Special care should be taken to resolve any issues related to undercover personnel.

B. Post-Operational Summary — Documentation of BWCs:

- (1) Upon conclusion of the enforcement operation, the Case Agent will prepare a Post-Operational Memorandum of Activity (MOA) summarizing the operation within five days of the operation. If there is a failure or malfunction with any of the BWCs, it shall be documented in the MOA. The MOA and any other documentation shall be consistent with OIG's case management policies. The MOA shall include:
 - (a) The names of the team members participating in the operation
 - (b) Whether all SAs were wearing BWCs during the operation
 - (c) If identified or known, whether all BWCs were activated prior to the operation
 - (d) If identified or known, if any BWCs malfunctioned or were inoperable during the operation

- (e) If identified or known, if any BWCs were not activated prior to or during the operation
 - (f) If identified or known, if any BWCs were turned off during the operation
 - (g) If identified or known, if any BWC recording was interrupted or terminated during the operation
 - (2) If there are any BWC deviations from the requirements under this policy (refer to following section), the respective SA shall notify the case agent immediately and prepare a detailed memorandum for the Case Agent. The Case Agent shall use this information when preparing the post-operational MOA.
- C. **Planned Deviation.** Any planned deviation from the OIG BWC policy must be approved by the AIGI in consultation with the Counsel to the IG and documented in either a memorandum or the operational plan and discussed at the operational briefing.
 - (1) Under exigent circumstances, an oral authorization may be given by the AIGI but must be subsequently documented. All documentation must be consistent with OIG's case management policies.
- D. **Unplanned Deviations.**
 - (1) Any SA who experiences a deviation from policy relating to BWC activation or deactivation due to device malfunction, operator error or other circumstances (e.g., the SA fails to activate the BWC, fails to record the entire contact or interrupts the recording) shall document the deviation in a memorandum or email within 48 hours. The memorandum or email shall address:
 - (a) Why the recording was not made
 - (b) Why the recording was interrupted
 - (c) Why the recording was terminated
 - (2) The SA shall provide a copy of the memorandum or email to the Case Agent and AIGI. The case agent shall ensure the memorandum is consistent with OIG's case management policies.

21-8 RESTRICTIONS ON USE OF BWCS

- A. Restrictions on BWC Use. BWCs shall only be used in conjunction with official law enforcement duties and not personal activities. Misuse of BWCs, including improper recording, improper dissemination or tampering with data, may result in disciplinary action up to and including termination.
- B. Prohibited Use of BWCs. Unless approved by the AIGI, Dep IG or IG in consultation with the assigned government attorney or Counsel to the IG, BWCs shall not be used to record:
 - (1) While in a detention facility if the law enforcement operation is not taking place
 - (2) Personnel conducting activities involving classified information as classified materials and/or information may not be stored, processed or transmitted on any unclassified system
- C. Per AOC Order 6-1 Photography and Video Recording Policy, AOC employees are generally prohibited from taking any photography or video recordings in any space on the Capitol campus that is not generally open to the public. OIG SAs planning enforcement operations on Capitol Grounds should be aware of this order and the Special Exceptions listed within. The SA should consult the AIGI and Counsel to the IG in the planning stages of the operation to determine whether to use BWCs. The consultation and outcome shall be documented in the operational plan.

21-9 TREATMENT, UPLOADING, STORAGE AND ACCESS OF BWC RECORDINGS

- A. Treatment of BWC Recordings. BWC recordings shall be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings. BWC recordings shall also be treated as potential evidence in a federal investigation subject to applicable federal laws, rules and policies concerning any such disclosure and therefore deemed privileged absent appropriate redaction prior to disclosure. Nothing in this policy shall be deemed to provide a right of public access to BWC recordings. BWC recordings are controlled by and are the property of the OIG and will be retained and managed by the OIG.
- B. Uploading and Downloading of BWC Recordings. BWC recordings will be transferred to permanent storage as soon as practical following operational deployment. The SA wearing the camera must confirm the recording has been transferred. The naming convention of the recording should include the case number, case name, SA's last name and date. Transferred recordings shall be maintained in OIG-controlled digital storage.

- C. Storage of BWC Recordings. BWC recordings will be stored in OIG-controlled digital storage with any vendor access logged. Each file will contain all relevant metadata, such as the date and time of the recording, name of the SA who recorded it and case name and number. An audit log should automatically be created and maintained that sets forth the history of each recording, date and time each recording is reviewed and name of each reviewer.
- D. Access to BWC Recordings. Access to the recordings shall be controlled by the BWC PM and AIGI. Stored BWC recordings shall have controlled access that is recorded automatically by the system software and audited periodically by the BWC PM and AIGI to ensure only authorized users are accessing the BWC recordings and associated data for legitimate and authorized purposes. All logins, video access and other actions taken in the system software will be placed in an audit trail log that is reviewable by the BWC PM and AIGI. This information may be discoverable and could be requested by the prosecution or defense during court proceedings.

21-10 BWC RECORDINGS — SHARING

- A. The BWC equipment and all data, images, video, audio and metadata captured, recorded or otherwise produced by the equipment is the sole property of the OIG. The BWC PM or AIGI may share BWC recordings as provided in this section. All requests and final decisions shall be maintained by the BWC PM. No other OIG personnel shall, edit, alter, erase, duplicate, copy, share or otherwise release, disclose or distribute in any manner any BWC recordings without prior written authorization from the AIGI, Dep IG or IG in consultation with the Counsel to the IG (refer to the sharing exceptions detailed in this section). SAs may review their own BWC recordings, subject to the restrictions detailed in this section, but may not share their BWC recordings with others.
- B. Requests for Disclosure of BWC Recordings. All requests for disclosure of BWC information shall be submitted to the AIGI. All releases shall be discussed and/or reviewed by the Counsel to the IG prior to release. If it is necessary to make redactions to the BWC footage, they will be made by the BWC PM or AIGI in consultation with the Counsel to the IG. The BWC PM is responsible for sharing the BWC recordings and documenting the request and action taken.
 - (1) DOJ — Discovery Requests for Pending Criminal Investigations. The BWC PM or AIGI may provide a copy of a BWC recording to an assigned government prosecutor upon request. Any requests from the assigned government prosecutor shall be sent by the Case Agent to the AIGI and BWC PM. Release of the recording shall be discussed and/or reviewed with Counsel to the IG prior to its release.
 - (2) Partner Law Enforcement Organizations. The BWC PM or AIGI may provide a copy of a BWC recording to a partner law enforcement agency

upon request and after concurrence from the assigned government attorney. Any requests shall be sent by the Case Agent to the AIGI and BWC PM. Release of the recording shall be discussed and/or reviewed with the Counsel to the IG prior to its release.

- (3) Freedom of Information Act (FOIA) or Privacy Act Requests. Although the AOC is not subject to FOIA or the Privacy Act as a legislative branch entity, partner agencies may receive requests that could impact the AOC OIG.
- (4) Other Requests Outside the AOC OIG. Requests for OIG BWC recordings unrelated to a pending OIG criminal investigation or case shall be forwarded to the Counsel to the IG, who is responsible for processing and responding to such requests. The Counsel to the IG shall coordinate with the BWC PM or AIGI as to who will provide necessary copies and redactions and who will assist with the production of the BWC recordings (refer to the following section). The Counsel to the IG shall provide the BWC PM or AIGI information about the decision and actions taken in response to each request processed.

21-11 BWC RECORDINGS — REDACTING

- A. In any situation where BWCs record content that otherwise should not be shared because of any law enforcement sensitivities or privacy concerns, which could include recordings of undercover personnel, confidential informants, sensitive investigative techniques or equipment, minors, injured or incapacitated individuals, or sensitive locations like restrooms, locker rooms, or medical facilities, the BWC PM and AIGI in consultation with the Counsel to the IG may use redaction software to blur images or portions of images or minimize audio content when making copies of BWC recordings for disclosure.
- B. Undercover Agents. If an undercover agent participates in the operation and the SAs on the scene are not able to take measures to avoid recording the identity of the undercover agent, the OSS shall inform the BWC PM and note this occurrence in writing. The BWC PM and AIGI should coordinate with the Counsel to the IG on what steps should be taken, if any, to redact any images and voice recordings of undercover personnel.

21-12 BWC RECORDINGS — ACCESS AND REVIEW

- A. Any requests to review BWC recordings must be made in writing to the AIGI. All requests must state the reason(s) for the request to review the recording. The AIGI shall maintain a log of such requests and whether access was granted.
 - (1) Reviews of BWC Recordings for Essential Functions. An SA may have access to the audio and video derived from their issued BWC when it is

reasonable and necessary for the SA to perform the essential functions of his/her job. Such instances may include but are not limited to a review necessary to create an MOA describing a recorded operation. Requests for access for essential functions should be submitted in writing by the SA to the BWC PM and state the reason for access. In matters where the BWC recording is relevant to an OIG management inquiry or employee investigation, access requests must be approved by the AIGI in consultation with the Counsel to the IG.

- (2) Reviews by SAs Involved in UOF or Other Administrative or Criminal Matters. An SA who is involved in a UOF incident and/or is the subject of an administrative or criminal investigative matter in which there is a BWC recording shall submit any request to review a recording in writing to the AIGI. The AIGI will consult with the Department of Justice in the case of potential criminal matters or the Counsel to the IG in the case of administrative matters and will evaluate the request based upon best practices identified by the Department of Justice consistent with Executive Order 14074 on Advancing Effective Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety (May 25, 2022). If approved, the AIGI or BWC PM shall process the request. If approved, the SA may review his/her BWC recording with his/her attorney or other representative, provided the attorney or representative signs a nondisclosure agreement. The SA shall not be permitted to make or take a copy of the recording.
- (3) Reviews by Personnel Conducting Internal Investigative Matters. Personnel conducting internal investigative matters may review BWC recordings in connection with such matters. Requests shall be made to the AIGI. If approved, the AIGI or BWC PM shall process the request.

21-13 BWC RECORDINGS — DELETING

Any request to delete a portion or portions of the BWC recordings, such as accidental recordings or trainings, must be submitted in writing via a memorandum by the SA and approved in writing by the AIGI, Dep IG or IG after consultation with the Counsel to the IG. The memorandum must state the reason(s) for the request to delete the recording. If the request is approved, the written approval shall be provided to the BWC PM. The BWC PM may delete the BWC recording only after receiving the approved memorandum. All requests and final decisions shall be maintained by the BWC PM.

21-14 BWC RECORDINGS — TRAINING

BWC recordings may be used for training purposes. Access to those BWC recordings shall be coordinated through the AIGI. When necessary, the AIGI in consultation with the Counsel to the IG will obtain the consent of any OIG personnel whose recordings or images are depicted in any videos used for training.

21-15 BWC RECORDS RETENTION

BWC recordings shall be retained according to OIG retention policies and Chapter 15-7 of the Office of Investigations Manual.

- A. Retention. BWC recordings that are not associated with complaints or allegations made against OIG employees and that do not contain information pertinent to the case being investigated shall be kept for five years following case closure unless a request is provided in writing to the BWC PM through the AIGI.
- B. Statements made. BWC recordings associated with information pertinent to the case being investigated, such as a spontaneous statement of a subject/target or witness or law enforcement officer, shall be kept in accordance with OIG's retention policy. The SA recording the statements shall memorialize these statements (i.e., in an MOA), and the document shall be consistent with the OIG's case management policies.
- C. UOF Incidents, Complaints and Allegations. BWC recordings associated with UOF incidents involving OIG employees, complaints or allegations made against OIG employees, or any other investigative matter involving OIG employees shall be retained as directed by the AIGI in consultation with the Counsel to the IG.
- D. Training. BWC recordings associated with normal training exercises (i.e., no injuries) shall be deleted after the AIGI or FM reviews the BWC recordings for teachable scenarios and confirms it is acceptable to delete the recording. If a teachable scenario is found, the FM shall ask the SA(s) involved if they would like their faces redacted and/or voices changed from the recording before its use in future training. The BWC PM shall redact faces and change voices as requested. The unredacted BWC recording shall be deleted after all changes are made to the training video.

21-16 BWC RECORDINGS — EXPEDITED PUBLIC RELEASE

Following incidents involving serious bodily injury or deaths in custody, the OIG shall take into account the need to promote transparency and accountability, the duty to protect the privacy rights of persons depicted in the footage and any need to protect ongoing law enforcement operations. The Counsel to the IG in consultation with the Dep IG and the IG shall handle considerations related to the expedited public release of BWC recordings in such a situation.

21-17 PRIVACY ACT REFERRALS

The Privacy Act authorizes agencies to refer documents and results of investigations to other law enforcement agencies. While the Privacy Act does not apply to the AOC OIG, under the current relevant system of records notice, the OIG may disclose pertinent information to appropriate federal, state, local or foreign agencies or other public authority responsible for investigating or prosecuting the violations of or for enforcing or

implementing a statute, rule, regulation, order or license where the information, either alone or with other information, indicates a potential violation of civil or criminal law or regulation and so forth. Referrals of OIG records, including BWC recordings, to another law enforcement agency must be reviewed by the Counsel to the IG.