

## LAW ENFORCEMENT AUTHORITIES

## Body-Worn Cameras

## APPROVAL/TRANSMITTAL

This directive governs the use of body-worn cameras (BWC) by authorized personnel of the U.S. Department of Agriculture (USDA) Office of Inspector General's (OIG) Office of Investigations (OI) and Office of Compliance and Integrity (OCI). Until all associated equipment is received and applicable personnel are fully trained, the implementation of this directive is deferred.

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PHYLLIS K. FONG  
Inspector General

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A. AUTHORITY

The Inspector General's authority to establish a BWC policy is contained in the Inspector General Act of 1978, as amended (5 U.S.C. app. 3, §§ 1-13), and Section 1337 of the Agriculture and Food Act of 1981, Pub L. No. 97-98, (7 U.S.C. § 2270). OIG is required to have a BWC policy that is equivalent to, or exceeds, the requirements of the BWC policy issued by the U.S. Department of Justice (DOJ) on June 7, 2021, which required heads of certain DOJ law enforcement components to develop policies regarding the use of BWC recording equipment. *See* Exec. Order 14074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* (May 25, 2022); DOJ Body-Worn Camera Policy, June 7, 2021.

B. PURPOSE

This directive establishes the policy governing the OIG OI BWC program. Therefore, this policy focuses on the deployment of BWCs in planned investigation-related law enforcement operations, where there are circumstances in which USDA Criminal Investigators have pre-planned law enforcement operations, such as a pre-planned attempt to serve an arrest warrant or other pre-planned arrest, or the execution of a search or seizure warrant or order.

This policy does not supersede existing OI policies or practices for the processing (i.e., collection, cataloguing, storage, and disposition) of evidence, conduct of interviews, or the use of surreptitious recording devices in undercover operations.

### C. SCOPE

This directive applies to all OIG Criminal Investigators authorized to conduct and/or participate in law enforcement operational activities, as applicable. The BWC Program Manager (PM) is an individual appointed by the Assistant Inspector General for Investigations (AIG/I), or their designee, and is responsible for the overall management of the BWC program.

### D. POLICY

OIG will utilize BWCs to document Criminal Investigator actions during: (1) a pre-planned attempt to serve an arrest warrant or other pre-planned arrest, including the apprehension of fugitives sought on State and local warrants; or (2) the execution of a search or seizure warrant or order.

If serious bodily injury or death in custody occurs, the Office of Counsel (OC) shall be notified without delay. OC will expeditiously review any BWC recording(s) and provide official concurrence with public release as soon as practical, unless there are specific and compelling circumstances justifying an objection to public release that cannot be resolved by redaction or other means. As appropriate, OC and the PM will coordinate the release of recordings.

#### 1. Joint Operations

When conducting law enforcement operations with a partner law enforcement agency that will deploy BWCs, Criminal Investigators authorized to conduct operational activities will comply with this OIG policy. This section applies to both USDA OIG -led enforcement operations and other agency-led enforcement operations. Prior to a law enforcement operation anticipated to employ BWCs, the Special Agent in Charge (SAC), or their designee, overseeing the operation shall notify the Assistant Inspector General for Investigations (AIG/I), or as applicable the Director of Compliance and Integrity (OCI), or their designee, of any unresolved conflicts with any partner law enforcement agency regarding the anticipated deployment of BWCs.

#### 2. Pre-Operation Planning and Briefing

Prior to conducting a law enforcement operation which anticipates employment of BWCs, the AIG/I, or as applicable the Director OCI, or their designee, shall be notified. The Assistant Special Agent in Charge (ASAC), or the Team Leader, will conduct a briefing regarding the planned use of BWCs. All OIG personnel who are issued BWCs and who are expected to activate them during an operation must receive the operation related briefing. Prior to the execution of an arrest or search warrant, the OIG Team Leader will also brief all members of the arrest or search team concurrently concerning IG-8471 (Arrests), IG-8473 (Search and Seizure), and IG-8472 (Use of Force).

### 3. Deployment of BWCs for Enforcement Operations

OIG Criminal Investigators authorized to conduct operational activities, shall wear and initiate audio and video recording by USDA OIG-issued BWCs for the purposes of recording their actions in all appropriate circumstances, and specifically during (1) a pre-planned attempt to serve an arrest warrant or other pre-planned arrest, including the apprehension of fugitives sought on state and local warrants; or (2) the execution of a search and seizure warrant or order. OIG personnel are authorized to activate their BWCs upon approaching a subject or premises, and they must deactivate their BWCs when the scene is secured as determined by the Federal supervisor on the scene. For purposes of this policy, “secured” is defined as a safe and secure scene under law enforcement control.

OIG personnel are prohibited from recording:

- a. undercover personnel;
- b. confidential informants or confidential sources;
- c. on-scene witness interviews prior to or after the operation;
- d. personnel using specialized investigative techniques or equipment; or
- e. on-scene actions by any non-law enforcement persons who are assisting law enforcement personnel prior to or after the operation.

OIG personnel are prohibited from activating their BWC if OIG is using specialized or sensitive investigative techniques, operating in a sensitive area, or working in an undercover or covert status.

Generally, OIG will not use BWCs to record activities related to investigations involving public corruption, medical facilities, national security, or other sensitive investigations.

### 4. Deviation from BWC Policy

Any required deviation from this policy, foreseen in advance of an applicable planned law enforcement operation or otherwise, must be approved, in writing, by the AIG/I, or as applicable the Director of OCI, or their designee, and documented via either decision memorandum or in the Additional Information section of IG-8473, Exhibit C (Enforcement Operational Plan). In either instance, information shall address:

- a. Why the recording will not be or was not made;
- b. Why the recording will be or was interrupted; or
- c. Why the recording will be or was terminated.

### 5. Deployment in Other Instances

If BWCs are utilized as an electronic recording device beyond the scope of this

policy, refer to IG-8410 and I-15-004-8410 for guidance. The deployment of BWCs is not intended to replace existing OIG policy or SOP regarding evidence collection or interviews.

6. Storage of BWC Recordings

BWC recordings, to include the automated 2-minute buffer (without audio) will be uploaded as a digital file as soon as possible, hashed, and stored and maintained via an approved electronic storage service. Access to the digital file recordings is for official purposes only. Covered OIG employees should refer to the BWC SOP for supplemental technical guidance.

7. Records Retention

BWC digital recording files will be stored securely and retained according to IG-2186, *Records Maintenance*; IG-8440, *Obtaining and Preserving Evidence*; and all other applicable OIG policies.

8. Restrictions on Use

OIG Criminal Investigators equipped with BWCs should be mindful of locations in which recording may be considered insensitive, inappropriate, or prohibited by privacy policies. BWCs shall only be used in conjunction with official law enforcement operations and not personal activities.

9. BWC Equipment

OIG Criminal Investigators will be issued a BWC, and such personnel shall only use BWCs issued by OIG. No personal BWCs may be used. Criminal Investigators shall exercise reasonable care when using BWCs to ensure their proper functioning. Additionally, Criminal Investigators shall ensure their BWC and carrier are secure and accessible at all times. Applicable OIG employees should refer to the BWC SOP (IG-8476-P) for supplemental technical guidance.

10. Loss or Theft of Equipment

OIG Criminal Investigators will report the loss, damage, or theft of a BWC or platform-associated equipment to their immediate supervisor and the BWC PM (and, as applicable, to the Director of OCI) as soon as possible, but no later than 24 hours after the discovery of the loss, damage, or theft. The immediate supervisor shall notify in writing the next level supervisor and the BWC PM. Please refer to OIG policy and procedures in IG-2711 for reporting lost, stolen, damaged, or destroyed property.

11. BWC Recordings

The BWC equipment and all data, images, video, audio, and metadata captured, recorded, or otherwise produced by the equipment are the sole property of OIG. OIG personnel shall not edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute in any matter, any BWC recordings, without prior written authorization from the AIG/I, or, as applicable, the Director of OCI, or their designee. The AIG/I and the Director of OCI will consult with OC as needed. OC may duplicate or copy any BWC recordings to comply with the Freedom of Information Act (5 U.S.C. § 552) or other Federal law. OC will notify the BWC PM if any BWC recordings have been copied or duplicated. OIG Criminal Investigators may review their own generated BWC recordings, subject to the restrictions below, but may not share their recordings with any other personnel, internal or external.

12. Requests for BWC Recordings

All BWC recordings made during an OIG operation shall be deemed Federal records of OIG. Nothing in this policy shall be deemed to create a right of public access to OIG BWC recordings.

All requests for BWC recordings will be forwarded to OC, which is responsible for processing and responding to such requests. All requests will be processed consistent with Federal law, including the Privacy Act of 1974 (5 U.S.C. § 552a), and will 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. OC will expedite the release of BWC recordings when serious bodily injury or death in custody is involved.

OC will provide as much advance notice as possible to any other related Federal agencies and DOJ, including any relevant United States Attorney (as applicable), as to the time and manner of any BWC recording release, as applicable.

13. Supervisory Responsibilities

Supervisors shall ensure that OIG Criminal Investigators receive the required training on the use of BWCs and storage of BWC footage in accordance with this directive and associated SOP (IG-8476-P). Additionally, supervisors will ensure BWC footage is uploaded within 72 hours of the cessation of a law enforcement operation.

14. Roles and Responsibilities

Supplemental technical guidance regarding roles and responsibilities can be found in the associated BWC SOP (IG-8476-P).

15. Training

To ensure the proper use and operation of BWCs, as well as to maintain compliance with privacy and applicable Federal laws, OIG Criminal Investigators are required to establish and maintain proficiency and knowledge related to BWCs. OIG will ensure all OIG Criminal Investigators have access to all the necessary training.

BWC recordings from OIG law enforcement operations may NOT be used for training purposes.

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