



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

November 2, 2022

MEMORANDUM

SUBJECT: Interim Guidance 2022-224
FROM: Jason Abend, Assistant Inspector General for Investigations
TO: Office of Investigations Staff

The following interim guidance, *Body Worn Cameras*, will set forth the interim guidance for the Office of Inspector General Office of Investigations Body Worn Camera (BWC) program.

This is new interim guidance, which outlines the following requirements. OI Law Enforcement Personnel (LEP) are required to wear and activate BWCs when:

- They anticipate a law enforcement encounter
- While participating in 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 while executing of a search or seizure warrant or order.
- While conducting interviews

This interim guidance will take effect upon the purchase of body-worn camera equipment then utilized during training and initial deployment. OI will use techniques and lessons learned to inform the final directive and OI BWC program implementation.

Please direct any questions to the Office of Investigations Chief of Staff, Marty P. Chavers, chavers.marty@epa.gov, (771)-210-6465

BODY WORN CAMERA INTERIM GUIDANCE

MATERIAL TRANSMITTED

OIG INTERIM GUIDANCE 224

BODY WORN CAMERA INTERIM
GUIDANCE

This interim guidance sets forth the guidance for the EPA Office of Inspector General, Office of Investigations (OI) Body Worn Camera (BWC) Program. This policy will take effect upon the acquisition of body-worn camera equipment, execution of training, and implementation of the OI BWC Program.

This is new interim guidance that outlines key BWC requirements for OI Law Enforcement Personnel (LEP) to train, activate, deactivate, record, retain and process footage for public release. Key information specific for OI LEP is:

- training is required prior to use
- activate when a law enforcement encounter is anticipated.
- utilize while executing pre-planned arrest warrants including the fugitives sought on state and local warrants.
- utilize when executing a search or seizure warrant or order.
- and while conducting interviews.

FILING INSTRUCTIONS

This is new interim guidance.

Jason Abend
Assistant Inspector General
Office of Investigation

TABLE OF CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
SECTION 1. INTRODUCTION.....	1
1.1 POLICY STATEMENT.....	1
1.2 BACKGROUND.....	1
1.3 DEFINITIONS.....	1
1.4 AUTHORITY AND REFERENCES.....	2
SECTION 2. PROCEDURES.....	2
2.1 ROLES AND RESPONSIBILITIES.....	2
SECTION 3. BODY WORN CAMERA PROGRAM.....	3
3.1 TRAINING.....	3
3.2 USE AND PLACEMENT.....	3
3.3 ACTIVATION.....	4
3.4 DEACTIVATION.....	5
3.5 RECORDS RETENTION.....	6
3.6 BWC RECORDINGS AND RELEASE REQUEST.....	7

SECTION 1. INTRODUCTION

1.1 POLICY STATEMENT.

This policy addresses the EPA OIG Office of Investigations (OI) body-worn camera program and applies to all OI Law Enforcement Personnel (LEP) who have been issued a body-worn camera and completed the required training.

LEP are required to wear and activate BWCs when they anticipate a law enforcement encounter, while participating in 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, and/or while executing of a search or seizure warrant or order.

This policy will fully take effect upon the purchase and acquisition of body-worn camera equipment and the training of OI LEP in the use of that equipment.

1.2 BACKGROUND.

BWCs are an enabling technology that OI will employ to provide granular documentation of interactions between law enforcement and the public. BWCs increase reporting accuracy and efficiency while also improving public trust, transparency, and accountability. This policy does not supersede existing OI policies for the collection of evidence, conducting interviews, or investigative technique policies.

1.3 DEFINITIONS.

- a. Body Worn Camera. A body worn camera is an OI-provided device used to record video and audio of interactions between OI LEP and other individuals where an anticipated law enforcement encounter or use of force may reasonably occur.
- b. Law Enforcement Personnel. Describes special agents/criminal investigators and law enforcement support personnel (e.g., investigative specialists, computer forensic specialists and other administrative personnel participating in law enforcement activities).

1.4 AUTHORITY AND REFERENCES.

- a. Deputy Attorney General Memorandum, *Body Worn Camera Policy*, dated June 7, 2021.
- b. Executive Order 14074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, dated May 25, 2022.
- c. [The Privacy Act of 1974](#)
- d. [The Freedom of Information Act 5 U.S.C. § 552, 1967](#)
- e. [The Federal Records](#)

SECTION 2. PROCEDURES

2.1 ROLES AND RESPONSIBILITIES.

- a. Assistant Inspector General Investigations (AIGI). The AIGI or their designee will assign an OI employee to be the BWC program manager.
- b. Body Worn Camera Program Manager. The BWC Program manager is assigned to the Field Support Division, and the BWC Program Manager is responsible for the overall management of the program and other duties that include and are not limited to:
 - i. Training
 - ii. Cost, Schedule, and Performance Management
 - iii. Records Retention and Data Storage
 - iv. Periodic audio and video quality checks for equipment functionality.
 - v. Cyclical audits to validate user provisions, detect unauthorized usage, and identify privacy concerns.
 - vi. New technology research
 - vii. Semi Annual Program Management Reviews (PMRs) for leadership

SECTION 3. BODY WORN CAMERA PROGRAM.

3.1 TRAINING

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

- a. Prior to deployment of BWCs, OI LEP must complete an OI approved training to ensure the proper use and operation of the BWC, as well as compliance with privacy and civil liberties laws.
- b. OI LEP must complete a semi-annual BWC familiarization module in conjunction with control tactics training or firearms training, to maintain proficiency in the use of BWCs and ensure continued functionality of the devices.
- c. OI agents must complete annual BWC privacy and legal refresher training to ensure compliance with privacy and civil liberties laws.

3.2 USE AND PLACEMENT.

- a. BWCs will be deployed/worn while conducting law enforcement operations, law enforcement activities leading to custodial situations, while transporting a detainee or prisoner, or at the request of partner agencies while in cooperative activities. BWCs are used to record video and audio of interactions between OI LEP and other individuals during enforcement encounters or interviews at the start of the event or as soon as safely possible thereafter. Only OI issued BWCs are authorized, personally owned BWCs or cameras are not authorized during law enforcement operations.
- b. The BWC should be worn on the outside of the ballistic vest or outermost garment to ensure the best field of view and to remain free from obstruction.
- c. OI LEP should not alter tactically sound principles to accommodate the BWC's visual recording. OI LEP should remember to 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. However, LEP shall not intentionally position the BWC in a manner that obstructs the view or does not capture the normal view of activity.

- d. LEP should exercise reasonable care when using BWCs to ensure their proper functioning, ensuring the BWC is fully charged before deployment and notify their supervisor of any equipment malfunctions upon discovery and as soon as safely possible.
- e. LEP will report the loss or theft of a BWC to their supervisor within 24 hours of the discovery of the loss or theft and the supervisor will notify the SAC and the BWC Program Manager.

3.3 ACTIVATION.

- a. Deployment of BWCs for Law Enforcement Operations.
 - i. Authorized personnel shall activate their BWCs in reasonable anticipation of law enforcement encounters at the start of the event or as soon as safely possible thereafter.
 - ii. BWCs will be deployed for any pre-planned law enforcement operations such as the execution of a search or arrest warrant.
 - iii. OI LE personnel shall deactivate the BWC once their participation or involvement in the enforcement encounter has concluded or when instructed by a supervisor.
- b. LEP will inform individuals at the beginning of the encounter that they are being recorded if it will not interfere with the encounter or safety. Otherwise, this notice shall be given as soon as possible and practical.
- c. LEP have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary and is consistent with religious, cultural, or privacy considerations.
- d. LEP should advise other law enforcement that they are being recorded for situational awareness if it will not interfere with the encounter or safety.
- e. Failure to Activate BWC or Record

In the event LEP fail to activate the BWC, fail to record the entire law enforcement operation, or interrupts the recording, the LEP shall inform their supervisor and document in a memorandum through their Deputy Assistant Inspector General Investigations (DAIGI) to the AIGI, copying their direct supervisor and the BWC Program Manager, the reason why the BWC was not activated, why the recording was not made; or, why the recording was interrupted or terminated prematurely. An

intentional failure to activate or the unauthorized termination of a recording may result in disciplinary action.

f. Operational Planning Brief

Prior to conducting any pre-planned enforcement operation, as described above, the on-scene OI supervisor or designated LEP will conduct a mandatory briefing regarding the use of BWCs. At a minimum the Operational Planning brief will include instructions for activation, deactivation, sensitive areas, sensitive content (i.e. unclothed personnel, children and confidential informants).

- i. *Use of Force.* LEP who are the subject of any use-of-force investigation, or other investigation related to the specific enforcement activity, may review their own BWC recording prior to providing any formal statements, reports or participating in any interviews. LEP who witness a use of force or critical incident shall also be allowed to view their own BWC recording prior to giving a formal statement. OI shall adhere to the OIG *Use of Force policy* for any LEP involved in use of force incident. Recordings of the use of force incident shall be collected in accordance with OI evidence policies.
- ii. *Internal Investigations.* Designated LEP may review BWC recordings in connection with an internal investigation of any OI personnel. Requests to review OI LEP BWC recordings for the purpose of this subsection shall be made in a memorandum to the AIGI and shall state the reason for the request.
- iii. *Training.* BWC recordings may be used to provide information for training purposes with the permission of the Special Agent in Charge.

3.4 DEACTIVATION.

a. BWC Deactivation

OI agents may deactivate their BWC at the direction of the on-scene supervisor once the supervisor determines that the scene is secured. For purposes of this policy, the term “secured” means that the scene is safe and under law enforcement control. Prior to deactivating the BWC, the SA shall verbally state the date, time, and reason for the BWC’s deactivation.

b. Search Warrant

When executing a search warrant, the OI on-scene supervisor may authorize OI agents to deactivate their BWCs once the location to be searched has been secured and all subjects have been searched. The OI on-scene supervisor will use his or her discretion to determine when team members conducting perimeter security during the execution of the warrant may stop recording. An SA may reactivate their BWC if a use of force situation later becomes imminent

c. Planned Arrests

When executing an arrest warrant or arresting an individual during the execution of a search warrant, the OI on-scene supervisor may authorize the deactivation of some BWCs once he or she has determined the scene is secure and any arrestees are handcuffed and placed in the transport vehicle. OI agents must continue to wear their BWCs during prisoner transport from the scene of the arrest.

d. Interviews

During one of the above enforcement operations, a BWC may be used to record an interview with an arrestee or detainee.

e. Exceptions

The OI on-scene supervisor may authorize agents to deactivate their BWC to conserve power if the operation is time intensive or to obtain medical attention for either themselves, another agent, or a law enforcement partner.

3.5 RECORDS RETENTION.

a. BWC Storage

BWC recordings with potential evidentiary information will be retained for five years and information with evidentiary information will be retained for twenty (20) years after closure of a case IAW EPA National Records program Records Management (NPRM) EPA Records Schedule 1016 A, 01/31/2020

- i. BWC recordings associated with use of force incidents involving OI employees, complaints or allegations made against OI employees, or any other investigations of OIG employees, will be retained in the video management system IAW the NPRM.
- ii. BWC recordings associated with normal training exercises will be deleted after the appropriate instructor reviews the recordings and confirms it is

acceptable to delete the recording. Instructors will ask OI LEP involved if they prefer their faces be redacted and/or voices changed from the recording before its use in future trainings. The BWC Program Manager will redact faces and change voices, as requested. No other OI personnel may delete or modify BWC recordings. The unredacted BWC training recording will be deleted after all changes are made to the training video.

b. Recorded Data Restriction

BWC recordings may not be accessed, used, downloaded, printed, copied, e mailed, posted, shared, reproduced, duplicated using an external recording device or otherwise distributed in any manner, unless for official use and in accordance with this interim guidance.

3.6 BWC RECORDINGS AND RELEASE REQUEST.

a. BWC Recordings

Are part of a larger OI investigative case file and thus, the premature and unauthorized disclosure of any BWC recording could reasonably be expected to interfere with enforcement proceedings. BWC recordings may 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.

b. Public Requests for OIG BWC Recordings

Any public requests for OIG BWC must use the EPA OIG Freedom of Information Act process. Requests for disclosure of BWC recordings to include audio and video recordings as well as time/date/recording length shall be processed by the BWC Program Manager, in consultation with the EPA OIG Office of Counsel (OC). Nothing in this policy shall be deemed to provide a right of public access to BWC recordings. BWC recordings are the property of the OIG and will be controlled, retained, and managed by the OIG.

- i. *Expedited Public Release* OI shall immediately coordinate with the EPA OIG Office of Counsel if BWC recording(s) depict conduct resulting in serious bodily injury or death. OI and OC will expeditiously review the recording(s) and provide official recommendation for with public release as soon as practical for IG approval, unless there are specific and compelling circumstances justifying an objection to public release that cannot be resolved by redaction or other means.

- ii. Upon official concurrence, the Office of Counsel and Congressional and Public Affairs (OCCPA) will release the recording(s) with agreed-upon redactions.