

**“Courage is on display every day, and
only the courageous wring the most
out of life.”
– Zig Ziglar**

CHAPTER 3.14

Body Worn Camera Program

DOE OIG Office of Investigations

CHAPTER 3.14

BODY WORN CAMERA PROGRAM

3.14.1 SCOPE OF CHAPTER

The purpose of this chapter is to issue policy, guidance, and procedures for Special Agents (SA) of the Department of Energy, Office of Inspector General (OIG), Office of Investigations (OI), regarding its Body Worn Camera (BWC) program.

3.14.2 POLICY

The BWC program is intended to promote public trust, transparency, and accountability during law enforcement operations. All SAs engaged in planned law enforcement operations must follow the BWC guidelines set forth in this chapter.

Note: This policy will take effect upon the purchase of BWC equipment and the full implementation of the OI BWC program, and after any pilot and training programs have occurred.

3.14.3 SCOPE

OIG SAs do not engage in general policing or public patrol and do not routinely engage with the public in response to emergency calls. Therefore, this policy focuses on the deployment of BWCs in planned law enforcement operations where the use of force may reasonably be anticipated, such as the planned execution of a search warrant or arrest. While BWC recordings may enhance the OI's ability to obtain evidence for investigative and prosecutorial purposes, it should be noted that the recordings may depict things that the SA did not see or hear, and/or the SA may have heard or seen things that were not recorded by the BWC. While the recordings depict visual information from the scene, the human eye and brain are highly likely to perceive some things in stressful situations differently than how the camera records them. This policy does not supersede existing OIG policies, such as those governing the use of force (see [Chapter 3.9](#)), conducting interviews (see [Chapter 9.2](#)), collection of evidence (see [Chapter 10.4](#)), or engaging in undercover operations (see [Chapter 10.6](#)).

3.14.4 RESPONSIBILITIES

3.14.4.1 Assistant Inspector General for Investigations (AIGI)

The AIGI has overall responsibility for developing and implementing guidelines for the BWC program.

3.14.4.2 *Deputy Assistant Inspector General for Investigations (DAIGI)*

The DAIGI can be delegated responsibilities for developing and implementing guidelines for the BWC program.

3.14.4.3 *Office of Counsel to the Inspector General (OIG Counsel)*

The OIG Chief Counsel is responsible for providing general legal opinion and guidance on matters impacting the BWC program.

3.14.4.4 *BWC Program Manager*

Appointed by the AIGI, the BWC Program Manager is responsible for the overall BWC program management. The BWC Program Manager is responsible for the selection, maintenance, administration, and deployment of BWCs to OIG SAs as required. Further, the BWC Program Manager is responsible for periodic auditing of BWC equipment and recordings to evaluate the quality of the audio and video recorded to ensure OI team members are properly operating BWCs in the manner intended by this program.

3.14.4.5 *Special Agents-in-Charge (SACs)/Assistant Special Agents-in-Charge (ASACs)*

SACs/ASACs, in coordination with the BWC Program Manager, are responsible for ensuring SAs are following OI BWC policy and procedures.

3.14.4.6 *Law Enforcement Training Program (LETP)*

LETP instructors, in coordination with the BWC Program Manager, are responsible for ensuring that all SAs are properly trained on the use of BWCs in accordance with this policy in this chapter.

3.14.4.7 *Special Agents*

SAs are responsible for following the OI BWC policy.

3.14.5 DEPLOYMENT

SAs actively participating in the execution of planned enforcement operations will wear and activate OIG-issued BWCs during the tactical portion of enforcement operations where the use of force may reasonably be anticipated. For the purposes of this policy, planned enforcement operations include the execution of search warrants and arrests, and arrestee transport.

SAs may also request approval from their ASAC, in coordination with the BWC Program Manager, to deploy BWCs in other circumstances if doing so would be prudent (e.g., interview of a subject or third-party witness who has an extensive criminal history or history of violence, surveillance, etc.).

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SAs operating in an undercover or discrete capacity are exempt from utilizing a BWC if such use will disclose their identity or expose the operation to increased risk.

3.14.5.1 *Pre-Operation Planning and Briefing*

Prior to conducting an enforcement operation, team leader for the operation will conduct a briefing that includes the planned use of BWCs. All OI team members taking part in the operation must receive the briefing.

OI team members will comply with OIG policy when conducting enforcement operations with other law enforcement agencies. The OI team leader for the enforcement operation will coordinate with other partner agency team leaders prior to the enforcement operation. Conflicts of policy between partnering agencies will be resolved by the OI team leader and the ASAC/SAC, in coordination with the BWC Program Manager. If the conflict resolution results in a deviation from this policy, that deviation must be approved by the AIGI or DAIGI.

3.14.5.2 *Joint Operations*

When conducting enforcement operations with a partner law enforcement agency that will deploy BWCs during the operation, OI team members will comply with DOE OI policy. This section applies to both DOE OI-led enforcement operations and other agency-led enforcement operations.

Prior to an operation using BWCs, the SAC overseeing the operation shall notify the AIGI or DAIGI of any unresolved conflicts with any partner law enforcement agency regarding BWC deployment during the operation. Deviations are discussed below.

3.14.5.3 *Activation*

Upon the direction of the operational team leader, BWCs shall be activated by all participating OI SAs upon approaching a subject or premises during an enforcement operation. If, while wearing a BWC pursuant to this policy, an SA encounters a situation that, consistent with his/her training and experience, could lead to use of physical or deadly force, or is relevant to the investigation, the SA should activate and record with his/her BWC as soon as it is safe and practical to do so.

3.14.5.4 *Deactivation*

BWCs will remain active until enforcement activities are completed, such as the securing of a search scene or securing and search of subjects. BWCs will only be deactivated at the direction of the OI operational team leader.

When executing a search warrant, the OI operational team leader may authorize SAs to deactivate their BWCs once the location to be searched has been secured and all subjects

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have been searched. The operational team leader will use his or her discretion to determine when OI team members conducting perimeter security during the execution of the warrant may stop recording.

When executing an arrest warrant or arresting an individual during the execution of a search warrant, the OI operational team leader may authorize the deactivation of most BWCs once he or she has determined the scene is secure and any arrestees are handcuffed and placed in the transport vehicle. At least one SA shall remain with anyone arrested. 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. During one of the above enforcement operations, a BWC may be used to record an interview with an arrestee or detainee.

The OI operational team leader may authorize SAs to deactivate their BWCs if the enforcement operation is of such a duration that BWCs need to be deactivated to conserve power and/or for temporary storage.

An SA may deactivate his/her BWC at any time when the SA needs to obtain emergency medical attention or needs to attend to a personal matter that takes him/her away from the planned operation, such as using the restroom.

3.14.6 RESTRICTIONS ON USE

BWCs shall only be used in conjunction with official law enforcement duties. In determining whether preapproved or unplanned deviation is appropriate, SAs equipped with BWCs should be mindful of locations where recording may be considered insensitive, inappropriate, or prohibited by privacy policies.

Absent approval from the AIGI or DAIGI, in consultation with any assigned prosecutor or the OIG Counsel, BWCs shall not be used to record:

- 1) inside a detention facility or courthouse, if the law enforcement operation is not taking place at that location.
- 2) personnel conducting activities involving classified information.
- 3) undercover operations.
- 4) at locations where individuals have a reasonable expectation of privacy such as restrooms or locker rooms.

3.14.7 DEVIATIONS

Any deviation from this OI BWC policy will be handled as follows:

3.14.7.1 *Pre-Approved*

Any official deviation from the OI BWC policy must be approved, in writing, by the AIGI or DAIGI, and if applicable, documented in the Operational Plan. Prior to the operation, policy deviations must be requested in an internal DOE/OIG memorandum (see [Chapter 5.9](#) of this OI Manual) to the AIGI or DAIGI through the SAC overseeing the operation.

3.14.7.2 *Unplanned*

Any unplanned deviation from policy related to BWC activation or deactivation due to device malfunction, operator error, or other circumstances, shall be documented in an internal DOE/OIG memorandum (see [Chapter 5.9](#) of this OI Manual) from the involved SA to the AIGI through the OIG on-scene supervisory and SAC overseeing the operation. The memorandum shall address the circumstances of the deviation, to include but not be limited to:

- (1) Why the recording was not made;
- (2) Why the recording was interrupted; and/or
- (3) Why the recording was terminated.

3.14.8 BWC EQUIPMENT

SAs shall only use BWCs issued by the OIG. SAs should exercise reasonable care when using BWCs to ensure they are fully charged and functioning before and during deployment.

SAs will notify the BWC Program Manager of any technical or equipment issues as soon as possible.

3.14.8.1 *Placement*

The BWC should be worn on the outside of an SA's ballistic vest or outermost garment to ensure the best field of view. SAs should reasonably ensure the BWC is not obstructed by clothing, lanyards, accessories, etc. However, it is critical that SAs should not alter tactically-sound principles to accommodate the BWC's visual recording. SAs should remember to seek cover and concealment and use proper tactics to ensure their safety while wearing the BWC even if doing so may obstruct the BWC's coverage.

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 OI team leader will inform the BWC Program Manager and note this occurrence in the MOIA memorializing the operation. The BWC Program Manager will coordinate with the OIG Counsel on what steps should be taken to redact any images and voice recordings of any undercover agents.

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3.14.8.2 *Loss or Theft*

SAs will report the loss or theft of assigned BWC equipment to their immediate supervisor as soon as possible, but no later than 24 hours after the discovery of the loss or theft. The SA's immediate supervisor shall notify the BWC Program Manager and the SAC.

3.14.9 RECORDINGS

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. Other than the BWC Program Manager or the BWC Program Manager's supervisor, no 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 (see internal DOE/OIG memorandum from [Chapter 5.9](#) of this OI Manual) from the AIGI or DAIGI, in consultation with the OIG Counsel. SAs may review their own BWC recordings, subject to the restrictions below, but may not share their recordings with others.

In all non-training circumstances, BWC recordings shall be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with law enforcement investigations and proceedings.

BWC recordings will also be treated as potential evidence in a federal investigation subject to applicable federal laws, rules, and policies concerning chain of custody any disclosure; and therefore, deemed privileged absent appropriate redaction prior to disclosure (see [Chapter 10.4](#) of this OI Manual).

BWC recordings will be uploaded as soon as possible, usually within 24 hours, and stored in an OIG-controlled cloud storage service, with any vendor access logged. Access to the recordings will be controlled by the BWC Program Manager. Each file will contain all relevant metadata, such as the date and time of the recording, the name of the SA who recorded it, and whenever possible the case name and number. An audit log will automatically be created and maintained that sets forth the history of each recording, the date and time each recording is reviewed, and the name of each reviewer.

3.14.9.1 *Requests for Disclosure*

All requests for disclosure, to include Freedom of Information Act (FOIA) requests, of BWC information shall be coordinated through the BWC Program Manager, in consultation with the OIG Chief Counsel and the AIGI. The BWC Program Manager will review all responsive BWC footage with OIG Counsel to determine if the recording, or parts of the recording, may be released. Coordination with the cognizant prosecutor and case agent will also be made. The BWC Program Manager will make redactions as determined by OIG Counsel.

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3.14.9.2 Treatment of BWC Recordings

In all circumstances, BWC recordings shall be treated as law enforcement sensitive information (and treated as Controlled Unclassified Information), the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings. BWC recordings will 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.

3.14.9.3 Deleting

Any request to delete a portion or portions of a non-training or not case related BWC recordings, such as accidental recording, must be submitted via a memorandum (see internal DOE/OIG memorandum from [Chapter 5.9](#) of this OI Manual) from the SA, through his or her supervisor and the SAC, and approved in writing by the AIGI or DAIGI, in consultation with the OIG Chief Counsel. The memorandum must state the reason(s) for the request to delete the recording. If the request is approved, the request memorandum and the written approval will be provided to the BWC Program Manager. The BWC Program Manager may delete the recording only after receiving the requested memorandum and written approval.

All memorandums regarding requests and final decisions regarding deletion of footage will be maintained by the BWC Program Manager and made in accordance with all applicable records retention policies.

3.14.9.4 Access and Review

Access to stored BWC recordings will be password protected, recorded automatically by the system software, and audited periodically by the BWC Program Manager to ensure that only authorized users access the recordings and associated data for legitimate and authorized purposes. All logins, video access, and other actions taken in the system software is placed in an audit trail log that is reviewable by the BWC Program Manager and the BWC Program Manager's supervisor. This information may be discoverable and could be requested by the prosecution or the defense during court proceedings.

- (1) SA Reviews. An SA may access BWC recordings when necessary to perform the essential functions of his/her job, including but not limited to such review necessary to draft and review a MOIA describing an operation.

An SA who is the subject of an administrative investigation relating to the recorded enforcement activity may review his/her own BWC recording prior to being interviewed by any OIG or non-OIG personnel investigating allegations about the SA's conduct. The SA may review his/her BWC recording with his/her attorney or other representative with prior approval by the AIGI or DAIGI. The SA will not be permitted to create or retain a copy of the recording without written approval of the AIGI or DAIGI.

- (2) OIG Agent-Involved Shootings/Uses of Force. All SA-involved shootings or other uses of force (including deadly force) should be treated as a possible criminal investigation

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unless and until the applicable federal, state, or local prosecution office(s) has declined prosecution. As soon as practicable after any such incident, the involved SA should be informed by his or her supervisor that he or she should not discuss the incident with anyone during the pendency of any preliminary investigation other than a personal or agency attorney, association representative, or agency investigator until the conclusion of the preliminary investigation. (See [Chapter 3.12](#) of this OI Manual). The involved SAs and any other SAs who witnessed the agent-involved shooting or use of force should provide their BWCs to the operational team leader. If the operational team leader was involved or witnessed the agent-involved shooting or use of force, the BWCs should be provided to the next senior SA on-scene. The BWC Program Manager or other SA who was not involved in the operation will upload the videos from all BWCs collected to the cloud storage service if said videos were not automatically uploaded by the devices. The involved SAs and any other SAs who witnessed the agent-involved shooting or use of force shall not be permitted to view their BWC recording without the concurrence of the assigned prosecutor.

- (3) Internal Investigations. OIG personnel conducting internal investigations may review BWC recordings in connection with such investigations. Requests to review a SA's BWC recordings shall be made in a memorandum to the AIGI. The memorandum shall state the reason(s) for the request.
- (4) Training. BWC recordings may be used for training purposes. Access to those recordings will be coordinated through the BWC Program Manager and any SA who is responsible for the creation of or is part of the recording. The BWC Program Manager, in consultation with the OIG Counsel, will obtain the written permission of any OIG personnel whose recordings or images are depicted in any training videos.
- (5) Supervisor Reviews. Supervisors may not use BWC recordings as evidence to support a negative performance appraisal. However, supervisors may view BWC recordings to conduct "after action debriefs" and for training purposes, as described above. Requests to review a SA's BWC recordings for the purpose of this subsection shall be made in a memorandum (see internal DOE/OIG memorandum from [Chapter 5.9](#) of this OI Manual) to the AIGI. The memorandum shall state the reason(s) for the request.

3.14.9.5 *Request for Release*

All requests for OIG BWC recordings unrelated to a pending OIG criminal investigation or case will be forwarded to the Office of Chief Counsel, which is responsible for processing and responding to such requests. Nothing in this policy shall be deemed to provide a right of public access to BWC recordings. OIG BWC recordings are controlled by, and the property of, the OIG and will be retained and managed by the OIG.

3.14.10 RETENTION

BWC recordings are subject to Federal [records retention requirements](#). OI team members are expected to be aware of and adhere to these requirements as outlined in [Chapter 5.3](#) of this OI Manual. The BWC Program Manager is responsible for ensuring all federal applicable record retention requirements are followed. Additionally, the following rules apply:

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- BWC recordings that are not associated with complaints or allegations made against OIG employees and do not contain information pertinent to the case being investigated will be deleted five (5) years following case closure unless a request is provided in writing to the BWC Program Manager through the AIGI or their designee.
- BWC recordings associated with information pertinent to the case being investigated, such a spontaneous statement of a subject, witness, or law enforcement officer, will be preserved in accordance with OIG's case records retention policy and consistent with federal law.
- BWC recordings associated with use of force incidents involving OIG employees, complaints or allegations made against OIG employees, or any other investigations of OIG employees, will be retained as directed by the AIGI or his/her designee in consultation with OIG Chief Counsel.
- BWC recordings associated with normal training exercises (i.e., no injuries) will be deleted after the appropriate instructor (firearms instructor, control tactics instructor, use of force instructor, etc.) reviews the recordings for teachable scenarios and confirms it is acceptable to delete the recording. If a teachable scenario is found, the instructor will ask the SA(s) involved if they would like their faces 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. The unredacted BWC recording will be deleted after all changes are made to the training video.
- In situations where sensitive law enforcement information or high confidentiality impact level information is recorded with the BWCs, such as undercover personnel or confidential informants, the BWC Program Manager will generate a hash value for the recording, save a copy to a separate OIG-controlled storage location protected at a high impact level and designated for sensitive law enforcement information, verify the hash value match of the original recording and the copy, and then purge the original recording from the OIG-controlled cloud storage service for BWC after receiving OIG Chief Counsel approval.

3.14.11 REDACTION AND PRESERVATION OF IDENTITY

Redaction to recordings will only be made by the BWC Program Manager in coordination with the SA who is responsible for the recording and OIG counsel, as appropriate. The BWC Program Manager may use redaction software to blur images or portions of images, or minimize audio content, when making copies of BWC recordings for disclosure. Redactions may occur in any situation where BWCs record content that otherwise should not be shared because of the above restrictions or any other law enforcement sensitivities or privacy concerns, which could include recordings of undercover personnel, confidential sources, sensitive investigative techniques or equipment, minors, injured or incapacitated individuals.

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3.14.12 TRAINING

OI leadership, in coordination with the BWC Program Manager and LETP, will be responsible for establishing and ensuring proper training is conducted for all SAs consistent with this policy. To ensure the proper use and operation of BWCs, as well as maintain compliance with an individual's right to privacy and due process, SAs must maintain proficiency and knowledge related to BWC deployment.