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31.0 BODY WORN CAMERAS

31.1 Overview

U.S. Department of the Treasury (Treasury), Office of Inspector General (OIG), Office of Investigations (OI) recognizes the benefits of recording events, actions, conditions and statements made during citizen contacts, arrests and other law enforcement related interactions. Body worn cameras (BWCs) provide additional documentation of contact between Special Agents (SAs), Treasury employees, and the public to improve public trust, transparency, and accountability.

BWC recordings can be used as evidence for investigative and prosecutorial purposes in the event a SA is threatened or assaulted or if there is a use of force or critical incident. BWCs can also be used to help resolve complaints made against a SA.

It should be noted that a BWC may record events differently than how a SA remembers the same event. The BWC may record events that the SA did not see or hear, and/or the SA may have heard or seen events that were not recorded by the BWC. While the BWC records video and audio information from the scene, under stress the human eye and brain are highly likely to perceive some events differently than how the camera records them. A BWC recording may not capture the SA's line-of-sight, record the events as the SA experienced them, record the SA's perceptions and/or fears, or account for the SA's reaction time to an event.

It is incumbent upon the criminal and administrative investigators, and the reviewers to understand and account for limitations of video and all other available evidence, including witness statements and forensic analysis when evaluating a SA's actions.

31.2 Body Worn Camera Program Manager Roles and Responsibilities

The Body Worn Camera Program Manager (BWCPM) will be selected by the Assistant Inspector General for Investigations (AIGI) or their designee. The BWCPM is a collateral duty, and the AIGI or their designee will provide input on the BWCPM's performance to their supervisor. In addition, OI management may adjust the BWCPM's investigative workload to reflect their additional duties.

The BWCPM will:

- Stay current with all required training and certifications
- Serve as the subject matter expert and advise OI management on BWC matters
- Represent OI on working groups and organizations pertaining to the BWC
- Be responsible for daily operations, management, and maintenance of the program
- Periodically review BWC recordings to ensure proper equipment operation and usage

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- Keep current on significant changes in technological capabilities by attending training and maintaining liaison and/or working with other Federal law enforcement agencies that use the technology on a regular basis
- receive periodic training on privacy and civil liberties laws

The AIGI or their designee, in consultation with the BWCPM, will designate additional OI personnel to serve as instructors, based on operational requirements. Duty as a BWC Instructor (BWCI) is a collateral duty, and the AIGI or their designee will provide input on the BWCI's performance to their supervisor. In addition, OI management may adjust the BWCI's investigative workload to reflect their additional duties.

31.3 Training

Prior to the issuance of any BWC equipment, SAs will receive training on its use by the BWCPM, a designated BWCI, or an external certified source. The training will include basic operation, synching recorded footage to a secure video server and accessing the video server to review recorded video.

All SAs must complete BWC training to ensure the proper use and operation of the BWC and to remain in compliance with privacy and civil liberties laws. Additional training will be provided at periodic intervals to ensure the SA's continued proficiency in the use of BWCs. All BWC training will be provided by the BWCPM, a designated BWCI, or an external source.

31.4 Placement of Body Worn Cameras

SAs will wear the BWC on the outside of a ballistic vest or their outermost garment to ensure the best field of view in a manner to capture the predominate actions and interactions between the SA and the citizen. SAs should ensure the BWC is not obstructed by clothing, lanyards, accessories, etc. SAs will not intentionally place the BWC where the focal point of the video is obstructed, or the device is placed in a manner such as to not capture the normal view of activity.

31.5 When to Use Body Worn Cameras

An "enforcement operation" is defined as the planned execution of an arrest warrant or search warrant requiring the use of a Tactical Operational Plan (TOP) (OI Form-39). BWCs will be deployed for all OI enforcement operations. All SAs participating in an enforcement operation will be equipped with BWCs. SAs will activate their BWCs to record contacts with individuals during enforcement operations.

"Other instances" is defined as any situation other than an enforcement operation. When not otherwise prohibited by law or agency policy, SAs may begin recording with their issued BWC in circumstances when they determine that doing so would be beneficial to the public interest. SAs may deploy BWCs in other instances (e.g., interview of a subject or third-party witness who has an extensive criminal history or history of violence, conducting surveillance, any encounter that becomes confrontational after the initial contact, etc.) where it may be prudent to record the interactions.

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SAs shall activate BWCs for enforcement operations and other instances, when such use is appropriate for the proper performance of their official duties and where recording is consistent with OI policy.

31.6 Restrictions on Use

SAs equipped with BWCs should be mindful of locations where recording may be considered insensitive, inappropriate, prohibited by privacy policies, or not required by OI policy. BWCs shall only be used in conjunction with official law enforcement duties.

BWCs shall not be used to record:

- Undercover operations;
- Confidential informants;
- Other sensitive matters involving a reasonable expectation of privacy (e.g., restroom, locker room, strip searches, discussions on tactics);
- At a moment when activating the BWC would be dangerous, unsafe, impossible, or impractical;
- OI personnel during routine administrative activities or during non-work-related personal activity.

31.7 Activation of Body Worn Cameras During Law Enforcement Operations

SAs will activate their BWC at the direction of the OI team leader during a law enforcement operation. The team leader will determine when to activate the BWCs and will ensure that each member of the enforcement team has activated their BWC prior to beginning the law enforcement action. Each SA will verbally state, “Body camera activated”, his/her name, the date and time, upon activation.

To ensure the integrity of the recording, the BWC must remain activated until the activity is completed or the contact moves into an area restricted by this policy.

31.8 Notice of Recording During Law Enforcement Operations

SAs shall notify the individual being recorded, as soon as is practical, unless it is unsafe, impractical, or impossible to do so. This notice provision is satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

31.9 Deactivation of Body Worn Cameras During Law Enforcement Operations

During the execution of an enforcement operation, the OI team leader can authorize the team to deactivate the BWC once the location to be searched has been secured and all subjects have been searched. The OI team leader will use his or her discretion to determine whether team members participating as outside cover should continue to record.

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Prior to deactivating the BWC, the SA will verbally state the date, time, and reason for the BWC's deactivation.

BWCs have a limited battery life. If the enforcement operation is of such a duration that the BWC should be deactivated to conserve power and/or storage, the OI team leader can authorize deactivation.

SAs may deactivate the BWC to obtain medical attention.

31.10 Activation, Recording and Deactivation of Body Worn Cameras During Other Instances

SAs may activate their BWC at their discretion during other instances in almost all 50 states without an individual's consent. SAs should remember that significant privacy concerns can arise when interviewing crime victims, particularly in situations involving rape, abuse, or other sensitive matters. The SA retains discretion regarding whether to record in these circumstances, by considering the evidentiary value of the recording and the willingness of the individual to speak on camera.

To ensure the integrity of the recording, the BWC must remain activated until the activity is completed.

Deactivation of a BWC shall occur immediately following the activity and the SA should verbally state the date, time, and reason for the BWC's deactivation.

BWCs have a limited battery life. If the BWC should be deactivated to conserve power and/or storage, the SA will verbally state the date, time, and reason for the BWC's deactivation.

31.11 Joint Operations

When conducting an enforcement operation with another law enforcement agency, OI SAs will comply with OI's BWC policy.

The OI team leader for any enforcement operation shall discuss the use of BWCs with the other agency's team leader prior to the enforcement operation.

In the event there is an unresolved conflict regarding the use of BWCs between agencies, the OI Team Leader shall notify the BWCPM, ASAC and SAC for further discussions.

31.12 Documenting Use of Body Worn Cameras After Enforcement Operations

Upon the conclusion of an enforcement operation, the case agent will address the following items in an OI Form-40:

- The names of the team members participating in the activity or operation;
- Whether or not all SAs were wearing BWCs during the activity or operation;

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- Whether or not all BWCs were activated prior to the activity or operation;
- If any BWCs malfunctioned or were inoperable during the activity or operation;
- If any BWCs were not activated prior to, or during, the activity or operation;
- If any BWCs were turned off during the activity or operation; and
- If any BWC recording was interrupted or terminated during the activity or operation.

31.13 Failure to Activate Body Worn Camera

If a SA fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the SA shall document in a memorandum to the DAIGI and SAC via the BWCPM the following:

- Why the recording was not made;
- Why the recording was interrupted; and/or
- Why the recording was terminated.

An intentional failure to activate the BWC, unauthorized termination of a BWC recording, and/or a failure to report such activity may result in disciplinary action.

31.14 Download and Storage of Body Worn Camera Recordings

After **No** Use of Force or significant incident:

Within 24 hours upon conclusion of an enforcement operation or other instance activity, the SA will download all BWC recordings..

After a **Use of Force** or significant incident (SA involved or witness):

As soon as practical after the enforcement operation or other instance activity has concluded, the SA's assigned BWC will be secured by their ASAC or other personnel as directed by the DAIGI. At no time prior to the BWC being secured by the ASAC will the SA access, download or view any BWC footage. The BWCPM or their designee will immediately download the SA's BWC to the cloud and restrict access.

31.15 Records Retention

BWC recordings will be securely stored in the cloud. At the conclusion of an investigation, all related BWC recordings will be disposed of according to the established records retention policy.

31.16 Body Worn Camera Equipment

SAs shall only use BWCs issued by OI and are responsible for maintaining and operating their issued equipment in accordance with the manufacturer's recommendations.

SAs should ensure that the BWC is fully charged and in operational condition before its deployment.

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SAs will notify the BWCPM of any equipment malfunctions, as soon as possible.

31.17 Loss or Theft of Issued Equipment

All SAs are to report the loss or theft of a BWC to their immediate supervisor within 24 hours of the discovery of the loss or theft. The immediate supervisor shall then notify the BWCPM, SAC and DAIGI. The BWCPM will work with the SA on getting replacement equipment issued in a timely manner.

31.18 Body Worn Camera Recordings

The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of OI. SAs shall not edit, alter, erase, duplicate, copy, share, or otherwise release, disclose or distribute in any manner, any BWC recording, without prior written authorization from the AIGI or designee.

SA's may request a copy of their BWC recording by written approval obtained from the Treasury OIG, Office of Counsel, through the AIGI or designee. The BWCPM will work with the SA upon final approval to extract and provide the authorized material.

Unauthorized accessing, copying, or releasing files is strictly prohibited, and will result in disciplinary action.

31.19 Delete Recordings

Any request to delete a portion or portions of the recordings (e.g., accidental recording) must be submitted in writing and approved by the AIGI or designee. The request must be made in a memorandum to the AIGI or designee via the SAC and must state the reason(s) for deleting the recording. The approved memorandum will be provided to the BWCPM and maintained according to the record retention schedule. The recording will only be deleted after the approved memorandum is received by the BWCPM.

31.20 Access and Review of Body Worn Camera Recordings

All access is audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. The BWCPM will provide an annual memorandum certifying their audit.

31.21 Reviews of Body Worn Camera Recordings

SAs shall be entitled to access the audio and video data derived from the BWC equipment issued to them to defend against allegations of misconduct or poor performance during the recorded enforcement activity. SAs will not share audio and video data files without an official purpose.

Audio and video data files will not be immediately provided to the SA where a use of force or critical incident occurs. SAs who are the subject of an investigation may not review their own BWC recording prior to providing any statements. Following a use of force or critical incident,

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the involved SA may be given the opportunity to view his or her own BWC recording, only after providing a formal statement.

The SA will be given an opportunity to review the BWC recording after the formal statement and will provide a second statement addressing any inconsistencies. The stress caused by the incident, the time elapsed between the incident and the interview, and fatigue can influence the SA's memory when providing a formal statement. OI will also consider that a BWC recording may not include the full incident, the context of the incident known or understood by the SA at the time, the precise viewpoint or perspective of the SA, or what the SA heard.

It is not the intent of OI to initiate complaints or additional allegations of false and/or misleading statements for discrepancies between a SA's memory of an incident and what is on the BWC recording unless there is a material discrepancy.

SAs who are witnesses to a use of force or critical incident may be given the opportunity to view their own BWC recording, only after providing a formal statement.

The Treasury OIG management may review BWC recordings in connection with an official internal investigation.

The AIGI may release BWC video and audio recordings to an independent agency conducting an internal or criminal investigation of any OI SA, with concurrence from Treasury OIG, Office of Counsel.

BWC recordings may be used to provide information for training purposes.

31.22 Internal Use of Recordings

The BWC system is not intended to be used as a disciplinary tool against personnel for minor infringements of policies or procedures. Supervisors will not arbitrarily review video/audio recordings for the purpose of identifying minor infractions of department policies or procedures. However, when cases of misconduct and/or repetitive negative behavior are brought to the attention of OI management, the video file may be reviewed and be used as the basis for remedial training.

OI may use video files for training or other purposes with an approved memorandum from the DAIGI via the SAC.

31.23 Administrative Reviews of Body Worn Camera Recordings

An Administrative Review is the evaluation of a BWC recording in connection with, but not limited to, a use of force incident, allegation of force, or any specific complaint allegation against a SA. On-duty related allegations, civil claims, or lawsuits should focus on the incident that is the subject of review, and not broaden into allegations of misconduct based on conduct observed that was not part of, or irrelevant to, the main inquiry. Administrative Review officials shall evaluate the facts and circumstances surrounding the incident and exercise appropriate judgment

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to determine if the SA should receive counseling, training, or a performance evaluation entry to correct the behavior, unless the conduct observed would likely result in suspension or termination.

Conduct observed in a BWC recording connected with an audit, inspection, or administrative review should not become the sole basis for allegations of misconduct unrelated to the incident that is the subject of the review. However, allegations of misconduct may be appropriate when the conduct observed would likely result in suspension or termination. When supervisory and management personnel conduct audits, inspections, or reviews of BWC recordings and discover activity that may constitute misconduct, the SA's actions in the BWC recordings alone should not result in the initiation of an administrative investigation. Rather, the member should receive counseling, training, or a performance evaluation entry to alert them and correct their behavior. However, the foregoing does not apply where the activity discovered would likely result in suspension or termination.

31.24 Unintentionally Recorded Personal Communications

In the event a SA's personal communication is recorded, the personal communication will not be used to initiate an administrative investigation or used against an employee in the adjudication of a personnel complaint, or during any subsequent hearings. If an unintentionally recorded personal communication contains independent evidence of conduct that would likely result in suspension or termination, OI may use the recording to initiate an investigation.

31.25 Freedom of Information Act Requests

Recordings from BWCs may be subject to release pursuant to the Freedom of Information Act (FOIA). Any request for records made pursuant to FOIA should follow normal operational procedures established by Treasury.

31.26 Expedited Release of Body Worn Camera Recordings

If Treasury OIG BWC recording(s) depict conduct resulting in serious bodily injury or death of another, Treasury OIG shall notify the United States Attorney, as early as possible, if it desires to publicly release the BWC recording(s). Treasury OIG and the United States Attorney will expeditiously review the 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. Upon official concurrence, Treasury OIG may immediately release the recording(s) with any agreed-upon redactions, giving as much advance notice as possible to the United States Attorney as to the time and manner of its release.