



Office of the Special Inspector General for Pandemic Recovery

BODY-WORN CAMERA (BWC) PROGRAM (INTERIM POLICY)

NOTE: *This is an interim policy, subject to modification before taking effect upon SIGPR Office of Investigations' procurement of body-worn camera (BWC) equipment and the full implementation of the BWC program, to include completion of training requirements.¹*

(Source: SIGPR Office of Investigations Policy and Procedures Manual, Chapter 23)

23.0 Purpose

This chapter addresses the policy and procedures pertaining to the Office of the Special Inspector General for Pandemic Recovery (SIGPR), Office of Investigations (OI), body-worn camera (BWC) program and the furtherance of transparency and accountability in law enforcement operations. This policy does not supersede existing SIGPR OI policies or practices regarding the collection of evidence, use of surreptitious recording devices in undercover operations, or to the recording of interviews.

23.1 Overview

On June 7, 2021, the Department of Justice (DOJ) issued a policy memorandum on BWC use by DOJ law enforcement agents during pre-planned law enforcement operations when the use of force is possible; specifically, the wearing and activation for purposes of recording their actions during pre-planned arrest operations (including pre-planned attempts to serve an arrest warrant or the execution of other pre-planned arrests) as well as the execution of search/seizure warrants or orders (**Exhibit 23-1**). Thereafter, on May 25, 2022, the [President of the United States issued an Executive Order \(E.O.\), No. 14074: Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#), which expanded the reach of DOJ's BWC policy to all federal law enforcement agencies, including SIGPR, requiring these agencies to establish BWC policies equivalent to, or exceeding, the DOJ policy.

BWCs provide an additional layer of documentation for SIGPR special agents (SAs) and can improve public trust, transparency, and accountability. BWCs allow for accurate documentation of contacts between SAs and the public, which can help resolve complaints made against an SA. BWC recordings may be used as evidence for investigative and prosecutorial purposes in the event an SA is threatened or assaulted during a contact, or if there is a use of force or critical incident.

¹ This interim policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

23.2 Roles and Responsibilities

Special Agent-in-Charge (SAC), Investigative Operations – The SAC–Investigative Operations, is responsible for administrative oversight and management of OI’s BWC program. The SAC, or a designated Investigative Operations SA, will serve as the BWC Program Manager and shall periodically review BWC recordings to ensure that BWC equipment is operating properly and that SAs are using BWCs appropriately and in accordance with OI’s policy. The SAC–Investigative Operations/BWC Program Manager will keep current on significant changes in the technology and keep abreast of related privacy and civil liberties laws. The SAC–Investigative Operations/BWC Program Manager will also ensure all SIGPR SAs receive the required training on the proper use of BWCs in accordance with OI policy.

Special Agents (SAs) – SIGPR SAs should exercise reasonable care when using BWCs to ensure their proper functioning, to include ensuring that the BWC is fully charged before its deployment. Prior to use, SAs shall complete the required, approved training on the proper use of BWCs and adhere to the policy and procedures regarding the wearing, operation (activation/deactivation), maintenance, and securing of BWC equipment, as outlined in this chapter. In addition, SAs will be required to participate in periodic training to ensure continued proficiency in the use of BWC equipment.

23.3 Body-Worn Camera Equipment Use/Placement

SIGPR SAs shall only use OI-issued BWCs. 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. SAs shall not intentionally position the BWC in a manner that obstructs the view or does not capture the normal view of activity.

23.4 Body-Worn Camera Deployment/Recording During Enforcement Operations

Pre-Planned Arrest/Search/Seizure Warrant Operations – BWCs shall be deployed for any SIGPR OI pre-planned attempt to serve an arrest warrant or other pre-planned arrest and for the execution of any search or seizure warrant or order (Enforcement Operations). All SIGPR SAs participating in these pre-planned Enforcement Operations shall be equipped with BWC equipment. SAs will activate their BWC to record their actions, to include contacts with individuals, during such operations. Unless unsafe, impractical, or impossible to do so, SAs will inform individuals at the beginning of the contact that they are being recorded.

Other Authorized Circumstances – SIGPR SAs may request supervisory approval to deploy BWCs under circumstances where it may be determined prudent to record interactions.

Joint Law Enforcement Operations – SIGPR SAs will adhere to OI policy when conducting joint Enforcement Operations with another law enforcement agency or multiple law enforcement agencies. The on-scene SIGPR OI supervisor/team leader, or SA, if no SIGPR OI supervisor/team leader is present, shall discuss the use of BWCs with the other law enforcement agency’s supervisor/team leader prior to the operation. This discussion should include an understanding of any other participating law enforcement agency’s use of BWCs during the

Enforcement Operation. The SIGPR OI supervisor/team leader overseeing the operation shall be notified immediately of any unresolved conflicts with any partner agency related to BWC deployment. In the event of any unresolved issues relating to SIGPR OI's intended use of BWCs during the Enforcement Operation, the SIGPR OI supervisor, team leader, or SA will also notify the Deputy Assistant Inspector General for Investigations (DAIGI) for guidance and resolution. The SAC–Investigative Operations/BWC Program Manager will share OI's BWC recordings related to joint law Enforcement Operations with the other participating agencies, when requested, and will request copies of those agencies' recordings. Those agencies will be advised that OI BWC recordings shall not be shared with anyone outside that agency without OI's written permission.

Operational Planning Brief – Prior to conducting any Enforcement Operation, as described above, the on-scene SIGPR OI supervisor/team leader or designated SA will conduct a mandatory briefing regarding the use of BWCs. The briefing will include discussing any steps that can be taken to avoid recording undercover agents/officers, as well as confidential informants/sources, if applicable.

23.5 Body-Worn Camera Activation

SAs will activate their BWC at the direction of the on-scene SIGPR OI supervisor or team leader. The supervisor/team leader will determine when to activate the BWCs and will ensure that each SIGPR SA team member has activated the BWC, prior to beginning the Enforcement Operation. Upon BWC activation, and when safe and practical to do so, the SA shall state, "Body camera activated," along with their name, the date, and time. SAs shall record the Enforcement Operations until they are concluded, and the scene is safe and under law enforcement control. If executing a search warrant, the Enforcement Operation is not concluded until the location to be searched is secured and all subjects have been searched. The BWC must remain activated unless an individual contact moves into an area restricted by this policy or deactivation has been authorized in accordance with section 23.6 below.

If while wearing a BWC in accordance with this policy, an SA encounters a situation which in the SA's judgment, based on experience and training, could lead to the use of force, the SA should activate the BWC as soon as safe and practical to do so.

Failure to Activate BWC or Record – In the event an SA fails to activate the BWC, fails to record the entire Enforcement Operation, or interrupts the recording, the SA shall document in a memorandum through the DAIGI to the AIGI, copying the SAC–Investigative Operations/ BWC Program Manager, the reason why the BWC was not activated, i.e., 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.

23.6 Body Worn Camera Deactivation

SAs will deactivate their BWCs at the direction of the on-scene SIGPR OI supervisor or team leader. Prior to deactivating the BWC, the SA shall verbally state the date, time, and reason for the BWC's deactivation. During a search warrant execution, the SIGPR OI supervisor/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 SIGPR OI supervisor/team leader will use discretion to determine whether SIGPR SAs participating as outside cover during the execution of the warrant should continue to record. Because BWCs have a limited battery life, the SIGPR OI supervisor/team leader can authorize deactivation to conserve power if the operation is time intensive. An SA may deactivate the BWC at any time to obtain medical attention.

For planned arrest operations, the BWC will remain worn during the transport of an arrestee from the scene of an arrest.

An SA may reactivate a BWC if a use-of-force situation later becomes possible.

23.7 Body-Worn Camera Use Restrictions

SAs should be mindful of locations where BWC recording may be considered insensitive, inappropriate, or prohibited by privacy policies. BWCs shall only be used in conjunction with official SIGPR law enforcement operations and not personal activities. Outside the course of an Enforcement Operation in which BWC use is authorized, at no time shall BWCs be used to record:

- undercover operations;
- confidential informants;
- communications with other law enforcement officers or agents; or
- in locations where individuals have a reasonable expectation of privacy.

23.8 Documenting Use of Body-Worn Cameras

Upon the conclusion of any SIGPR OI Enforcement Operation in which BWCs were deployed, the SIGPR OI case agent will document the use and provide a summary of the investigative activity in a Memorandum of Activity (MOA), SIGPR Form OI-2.1. The summary should include the following information and may be part of the overall MOA documenting the activity:

- the names of the participating team members;
- whether or not all SAs were wearing BWCs during the operation;
- whether or not all BWCs were activated prior to the operation;
- if any BWCs malfunctioned or were inoperable during the operation;
- if any BWCs were not activated prior to, or during, the operation;
- if any BWCs were turned off during the activity or operation; and
- if any BWC recording was interrupted or terminated during the operation.

23.9 Body-Worn Camera Recording Handling, Safeguarding, Storage, and Retention

Upon completion of the Enforcement Operation, the SIGPR OI on-scene supervisor, team leader, or senior SA will collect all BWCs and return them to the SAC–Investigative Operations/BWC Program Manager. The SAC–Investigative Operations/BWC Program Manager will be responsible for downloading all BWC recordings. Each file shall contain the date and time of the recording, BWC identifier, and assigned SA. An audit log will be maintained on the history of every recording.

At no time shall SAs edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute in any manner, any BWC recording without prior AIGI or DAIGI written authorization. Unauthorized accessing, copying, or releasing files is strictly prohibited.

Any request to delete a portion or portions of the recordings (*e.g.*, accidental recording) shall be submitted in writing and approved by the DAIGI or AIGI. The request must be made in a memorandum and must state the reason(s) for deleting the recording. Upon approval, the memorandum will be provided to the SAC–Investigative Operations/BWC Program Manager for filing in OI’s records. The recording will only be deleted after the approved memorandum is received by the SAC. The SAC–Investigative Operations/BWC Program Manager will maintain a record of all requests and final decisions. In addition, documentation of these actions will be made in the electronic case file.

If a BWC recording is deemed evidence the SAC–Investigative Operations/BWC Program Manager will download the recording onto an OI-approved medium and provide it to the case agent for entry into evidence. The SAC–Investigative Operations/BWC Program Manager will complete an Evidence Custody/Property Receipt Form, SIGPR Form OI-6.7, documenting the chain of custody. If needed, a working copy of the BWC recording may also be provided.

BWC recordings will be securely stored on a dedicated server or when appropriate, within the electronic case management system. All recordings are agency records and should be disposed of according to SIGPR’s records retention policy. As stated above, BWC recordings deemed evidence will be handled in accordance with SIGPR OI’s evidence policy.

23.10 SIGPR Access and Review of Body-Worn Camera Recordings

All accesses to BWC recording data will be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. Any requests to review BWC recordings must be made in a memorandum to the SAC–Investigative Operations/BWC Program Manager, subject to the approval of the AIGI and SIGPR Office of General Counsel (OGC), after coordination through the DAIGI. The memorandum must state the reason(s) for the request to review the recording.

An SA shall be granted access to BWC recording data derived from the BWC equipment issued to them to defend against allegations of misconduct or poor performance during the recorded enforcement activity. SAs shall not share such data files without an official purpose. SAs 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 or participating in any interviews. The SA may review the recording with their attorney or other representative. SAs 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. Designated SAs may review BWC recordings in connection with an internal investigation of any SIGPR personnel. In addition, BWC recordings may be used to provide information for training purposes with the permission of all SIGPR OI SAs captured by the audio or video recording.

BWC recordings will not be released to a SIGPR OI supervisor solely for the purpose of evaluating an SA's performance during an enforcement operation or for performance reviews/appraisals.

23.11 Request for Disclosure, Release, and Referrals of Body-Worn Camera Recordings Outside SIGPR

SAs must obtain written approval from the AIGI and SIGPR's OGC prior to any disclosure, referral, or release of BWC data information (*i.e.*, audio or video recording, etc.). All such requests should be coordinated through the DAIGI and SAC–Investigative Operations/BWC Program Manager.

SIGPR conforms to the Department of Justice (DOJ) regulations and guidance concerning the confidentiality, release, and disclosure of information relating to criminal and civil proceedings, as outlined in 28 CFR § 50.2 and DOJ's Justice Manual, Section 1-7.

In all circumstances, BWC recordings will be treated as law enforcement sensitive information (and treated as Limited Official Use), 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. All requests for BWC recordings related to a pending investigation or criminal or civil case shall be forwarded to SIGPR's OGC for notification and coordination with the relevant DOJ component.

All requests for BWC recordings unrelated to a pending investigation or criminal or civil case shall be forwarded to the OGC, 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. SIGPR BWC recordings are controlled by, and the property of, SIGPR and will be retained and managed by SIGPR.

Redacting BWC Recordings – 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, or sensitive locations such as restrooms, locker rooms, or medical facilities, the SAC–Investigative Operations/BWC Program Manager, in consultation with OGC, may use redaction software to blur images or portions of images, or minimize audio content, when

making copies of BWC recordings for disclosure.

Freedom of Information Act (FOIA) Requests –The Freedom of Information Act (FOIA) provides that any person has a right to obtain access to federal agency records unless they are protected from disclosure by a specific statutory exemption. SIGPR OGC has primary responsibility for advising on records disclosure and for responding to requests for information. Any request for BWC information or records made pursuant to FOIA will be forwarded through the SAC–Investigative Operations/BWC Program Manager to OGC.

The assigned OGC attorney and the SAC–Investigative Operations/BWC Program Manager shall, at a minimum, review the applicable BWC recording footage and determine what information may be released, as well as identify any necessary redactions, to include the relevant justifications. A complete copy of the BWC recording, along with the suggested redactions and written justification, will be provided to the DAIGI and the Deputy General Counsel for approval. Upon authorized approval, the SAC–Investigative Operations/BWC Program Manager will redact the applicable portions of the BWC recording. The redacted BWC recording will be provided to the OGC attorney responsible for the FOIA response.

Information about FOIA can be found at <https://www.foia.gov/faq.html>.

Privacy Act Referrals – The Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act or Act), provides safeguards for individuals against an invasion of personal privacy through the misuse of records by federal agencies. The Act balances the individual’s personal privacy interest against the Government’s need to maintain information about individuals. SIGPR is authorized under the provisions of the Privacy Act to refer documents and results of investigations to other law enforcement agencies.

SIGPR OGC must review all Privacy Act referrals of SIGPR records, including BWC recordings, to another law enforcement agency except for referrals to DOJ or referrals of information concerning a threat of imminent danger, physical injury, or death.

Expedited Public Release –OI shall immediately coordinate with SIGPR OGC if BWC recording(s) depict conduct resulting in serious bodily injury or death of another. SIGPR shall notify the relevant DOJ component as early as possible if it desires to publicly release the BWC recording(s). SIGPR and DOJ 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, SIGPR may immediately release the recording(s) with any agreed-upon redactions, giving as much advance notice as possible to DOJ as to the time and manner of its release.