



# FHFA-OIG Body Worn Camera Policy

March 28, 2024

**Summary:** Establishes the requirements and procedures for use and wearing of body worn cameras by Special Agents for the Office of Investigations

**Approval:** Michael J. Mullaney, Deputy Inspector General for Investigations

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## I. BACKGROUND

In response to Executive Order 14074, Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety, signed May 25, 2022, the following is the Federal Housing Finance Agency Office of Inspector General's (FHFA-OIG) policy regarding Body Worn Cameras (BWCs).

The use of BWCs by Special Agents (SAs) fosters public trust, transparency, and accountability. BWCs enable SAs to capture contacts between witnesses, subjects, targets, and the public during the execution of enforcement actions.

While BWC recordings may enhance the Office of Investigation's (OI) ability to obtain evidence for investigative and prosecutorial purposes, it should be noted that the recordings may depict things that the SAs did not see or hear, and/or the SA may have heard or seen things that were not recorded by the BWC. While the BWC recordings depict visual information from the scene, the human eye and brain are highly likely to perceive some things differently in stressful situations than how the camera records them.

Exceptional circumstances may result in deviation from this policy in conjunction with the relevant prosecutor's guidance.

All SAs are required to review the FHFA-OIG Body Worn Camera Policy annually.

## II. POLICY

### A. Joint Agency Operations

1. SAs shall comply with FHFA-OIG BWC policy when conducting enforcement operations, such as search warrants and arrest warrants, with another law enforcement agency.
2. The FHFA-OIG case agent or designee will be the team leader for FHFA-OIG BWC purposes for every enforcement operation.
3. When planning an FHFA-OIG-led enforcement action with another law enforcement agency, the operation BWC team leader shall discuss BWC deployment during the

joint operation with the partner agency's team leader and/or team members. The discussions shall include briefing the partner agency on FHFA-OIG BWC policy and reviewing the partner agency's BWC policy, if applicable. The case agent will document these discussions in the FHFA-OIG operational plan, FH6-2.

4. When FHFA-OIG is not the lead agency on an enforcement action with another law enforcement agency, the FHFA-OIG BWC team leader will brief the partner agency's team leader and/or team members on FHFA-OIG BWC policy. The FHFA-OIG case agent will document these discussions in the FHFA-OIG operational plan, FH6-2.<sup>1</sup>
5. The Special Agent in Charge (SAC) shall notify the Assistant Inspector General for Investigations (AIGI) or Deputy Inspector General for Investigations (DIGI) if there are any unresolved conflicts with other law enforcement agencies regarding FHFA-OIG deployment of BWCs during an enforcement operation.<sup>2</sup>

## **B. Body Worn Camera Program Manager**

The BWC Program Manager is responsible for the overall management of the program. Among other duties, the BWC Program Manager will periodically review BWC recordings to evaluate the quality of the audio and video recorded to ensure that FHFA-OIG agents are properly operating BWCs in the manner intended by this program. The Office of Counsel will provide legal support for the BWC program. See also BWC Program Manager Operating Procedures.

## **C. Deployment of BWCs During Enforcement Operations**

SAs shall deploy BWCs during enforcement operations, such as search warrant executions and arrests. The use of BWCs will be outlined in agency operational plans and discussed during operational briefings. All FHFA-OIG SAs participating in an enforcement operation will be equipped with a BWC and will be briefed on FHFA-OIG's BWC policy.

## **D. Placement of BWCs**

SAs will wear and use only one BWC at a time in accordance with this policy and training. Generally, SAs shall wear BWCs externally on the front of their ballistic vest carrier or outermost garment to ensure the best possible field of view. SAs should ensure BWCs are not obstructed by clothing, lanyards, accessories, etc. SAs should not alter tactically sound principles of safety to accommodate the BWC's visual recording. SAs should seek cover and concealment, if needed, and use proper tactics to ensure their safety while wearing the BWC, even if doing so obstructs the BWC's field of vision. Other than limited user-preference settings, such as volume or LED display settings, FHFA-OIG personnel will not

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<sup>1</sup> If circumstances do not allow for the FHFA-OIG BWC policy briefing to be documented in the FHFA-OIG operational plan, the case agent must document the briefing in the case file utilizing a supplemental Memorandum of Activity (MOA).

<sup>2</sup> If the unresolved conflict(s) regarding BWC deployment is significant, it must be documented accordingly in the applicable case file.

change the settings or functions of an FHFA-OIG-issued BWC unless authorized by the BWC Program Manager.

#### **E. Activation and Deactivation of BWCs**

1. SAs must activate their BWCs no later than the commencement of enforcement operations or at the direction of the FHFA-OIG enforcement operation team leader or designated onsite supervisor. Generally, this should occur prior to commencing the operational stage of an enforcement activity, and the BWC should be placed in the ready (buffering) mode. Upon activation, SAs shall verbally state, “*Body camera activated,*” their name, location, and the date and time. FHFA-OIG SAs may activate their equipment and state this preamble at the pre-operation staging location, then return the equipment to the “ready/buffering” mode until they are approaching the scene of the enforcement activity.
2. To ensure the integrity of BWC recordings, the BWC must continuously record until the FHFA-OIG team leader or designated onsite supervisor declares the scene is safe or, unless the SA engages in a restricted use activity, as outlined under F.9, below.
3. During enforcement operations, SAs shall return their BWCs to the “ready/buffering” mode at the direction of the FHFA-OIG team leader or designated onsite supervisor. Prior to deactivating the BWC, SAs will state “*Body camera deactivated,*” their name, location, and the date and time. If the BWC is deactivated due to a restricted use activity as outlined below, if appropriate, the BWC must be immediately reactivated when finished, and the SA should state the time it is reactivated.
4. When executing an enforcement operation, the FHFA-OIG team leader or designated onsite supervisor may authorize the team to return their BWCs to the “ready/buffering” mode once the location to be searched has been secured and deemed safe by the team leader or designated onsite supervisor. If, during the execution of a warrant, the team leader or designated onsite supervisor determines that a particular activity should be recorded, e.g., breaching a safe, the team leader or designated onsite supervisor will direct SAs to reactivate their BWCs until that particular activity is completed.
5. When executing an arrest, the FHFA-OIG team leader may authorize the deactivation of most BWCs once the scene is secure and any arrestees are handcuffed and placed in the transport vehicle. FHFA-OIG SAs should consult in advance with the relevant prosecutor to determine if they must continue to activate their BWCs while on the scene of an arrest and during prison transports from the scene of an arrest.
6. If the SA becomes aware that the BWC was not activated in accordance with this policy or was accidentally or inadvertently deactivated during an event being recorded, they must activate the BWC as soon as it is safe and practical to do so. If this occurs, the SA will submit an MOA explaining the reasons why the event was not fully recorded. (See G below).

7. When on official duty, agents should be aware of situations where the use of force might be necessary. In such cases, an SA must activate their BWC, if available, as soon as it is safe and practical to do so. SAs should not compromise their safety or the safety of other persons to record an incident. An SA's determination as to whether the use of force could arise is dependent on the training, experience, and judgment of the SA in the given circumstances. (See G below).
8. RESTRICTIONS ON USE.<sup>3</sup> SAs equipped with BWCs should be mindful of locations where recording may be considered insensitive, inappropriate, or prohibited by privacy laws, regulation, and/or policies. BWCs are considered government property and shall only be used in conjunction with official law enforcement duties and not personal activities. BWCs shall not be used to record:
  - a. Undercover Operations. If an undercover agent participates in the operation, and the FHFA-OIG agents on the scene are not able to take measures to avoid recording the identity of the undercover agent, the FHFA-OIG designated onsite supervisor will inform the BWC Program Manager and note this occurrence in the MOA memorializing the operation. The BWC Program Manager will notify the Office of Counsel and coordinate with the relevant prosecutor on what steps should be taken to redact any images and voice recordings of any undercover agents.
  - b. Communications with other FHFA-OIG personnel taking place outside the confines of an operation, unless approved in writing by the AIGI or DIGI.
  - c. Locations where individuals have a reasonable expectation of privacy, such as a restroom or locker room, without the permission of the AIGI or DIGI.
  - d. When SAs receive medical attention.

#### **F. Deviation from BWC Policy**

1. Pre-Approved Deviations. Any pre-planned deviation from the FHFA-OIG BWC policy must be approved in writing by the DIGI, or AIGI (if designated), the Principal Deputy Inspector General (PDIG), or the Inspector General (IG), in consultation with the Office of Counsel, and documented in Form FH6-2 Operational Plan.
2. Unplanned Deviations. Any deviation from policy related to BWC activation or deactivation due to device malfunction, operator error, unavailability of an operable BWC, or other circumstances, shall be documented in an MOA from the FHFA-OIG case agent to the SAC overseeing the operation through the FHFA-OIG designated onsite supervisor. The memorandum shall address:

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<sup>3</sup> If BWCs are not returned to the "ready/buffering" mode after the scene has been secured and deemed safe, activity requiring privacy will be redacted prior to release outside of FHFA-OIG. However, SAs should make every effort to continue to capture audio during this activity.

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

#### **G. Uploading and Storage of BWC Footage**

BWC recordings will be uploaded as soon as possible, and no later than 72 hours after the conclusion of the enforcement operation and stored in an FHFA-OIG cloud storage service. Access to the recordings will be controlled by the BWC Program Manager. Each file will contain all relevant metadata, such as the date, time, and location 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. In exceptional circumstances, the DIGI or designee can approve a delay in uploading BWC recordings.

#### **H. Records Retention**

BWC recordings will be stored on a system that protects the data from unauthorized access and ensures the integrity of the data. All recordings not classified as evidence are agency records and should be disposed of in accordance with FHFA-OIG's records retention policy.

#### **I. Evidence Retention**

BWC recordings of operational, enforcement, or investigative activities, including recordings made in the presence of a prisoner or detained person, are classified as evidence. BWCs containing BWC evidence must be safeguarded until uploaded and kept secure in an FHFA-OIG office or in the possession of the assigned SA. For BWC recordings deemed evidence, the SA will adhere to FHFA-OIG's evidence policy.

#### **J. BWC Equipment**

SAs will only use FHFA-OIG-issued BWCs. SAs should exercise reasonable care when using BWCs to ensure proper functioning. SAs should ensure that BWCs are fully charged before deployment and shall notify their SAC and BWC Program Manager of any equipment malfunctions as soon as possible. BWCs will not be left in an unsecured location.

#### **K. Loss or Theft of BWC Equipment**

All SAs shall report the loss or theft of a BWC to their immediate supervisor as soon as practical, but no later than 24 hours after the discovery of the loss or theft. The immediate supervisor shall notify the BWC Program Manager. If the BWC contained footage relevant to an operation or investigative activity, the SA will detail that in a memorandum sent to their SAC and the relevant prosecutor.

## **L. BWC Recordings**

1. BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of FHFA-OIG. Without prior written authorization from the AIGI or DIGI, SAs shall not edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute in any manner, any BWC recording.
2. SAs must obtain supervisory approval prior to routine disclosure of any BWC content to law enforcement partners. Unauthorized accessing, copying, or releasing files is strictly prohibited and may result in disciplinary action. BWC recordings will not replace required reports or other documentation required by FHFA-OIG policies and procedures. For legal questions pertaining to the use of BWCs or handling of BWC recordings by FHFA-OIG SAs, personnel should consult with the BWC Program Manager and/or the Office of Counsel.

## **M. Redacting BWC Recordings**

In any situation where BWCs record content that should not be shared because of any 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 BWC Program Manager or other authorized official, in consultation with the Chief Counsel or designee, may use redaction software to blur images or portions of images, or minimize audio content, when making copies of BWC recordings for disclosure.

## **N. Deleting or Restricting Access to BWC Recordings**

BWC recordings will not be deleted. In appropriate circumstances access to the recordings may be further restricted to authorized personnel. Any request to restrict a portion, portions, or entire recordings must be submitted in writing through the supervisory chain of command to the DIGI for approval. A record of the DIGI's decision will be maintained by the BWC Program Manager.

## **O. Access and Review of BWC Recordings**

Access to stored BWC recordings will be password-protected, recorded automatically by system software, and audited periodically by the BWC Program Manager to ensure that only authorized users are accessing the data for authorized purposes. All logins, video access, and other actions taken in system software are noted 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 for use in criminal, civil, or administrative cases.

## **P. Permitted Reviews of BWC Recordings**

1. SAs may review their own BWC recordings and access BWC recordings associated with a case they are assigned in order to perform the essential functions of their position, including but not limited to such review necessary to draft and review an MOA describing an operation, as well as in preparation for testimony. The purpose of using BWC recordings for these activities is to maximize the accuracy of the report or testimony, not to replace independent recollection and perception of an event. SAs may not share their recordings with others.
2. SAs may also access their own BWC recordings when necessary to respond to allegations of administrative or criminal misconduct or poor performance relating to the recorded enforcement activity, subject to the following limitations:
  - a. The Subject of an Administrative Matter. SAs who are the subject of an administrative investigation relating to a recorded enforcement operation may review their own BWC recording(s) prior to being interviewed by any FHFA-OIG or non FHFA-OIG personnel investigating allegations about the SAs' conduct. SAs may review their BWC recording(s) with their attorney. The SA will not be permitted to make or take a copy of the recording. See Section 5.32 of the OI Policies and Procedures Manual for additional information regarding administrative misconduct investigations.
  - b. Use of Force Critical Incidents. As set forth in Section 4.1 of the OI Policies and Procedures Manual, "critical incident" is defined as one in which there has been the use of force by a federal law enforcement officer in the line of duty that results in death or serious bodily injury.
    - i. With the concurrence of the relevant prosecutor, SAs involved in a critical incident may be interviewed before watching relevant BWC footage. During the "perceptual interview," they should describe their perceptions (what they saw, heard, felt, believed, experienced before arriving, etc.) before, during, and after an incident. After the perceptual interview, SAs will be given the opportunity to provide a video-informed statement by reviewing their own BWC footage and offering clarifications that they believe are appropriate.
    - ii. All use of force critical incidents including SA-involved shootings will be presumed to be under criminal investigation unless and until the relevant prosecutorial office(s) has declined prosecution. This policy does not presume the SA is the target of the criminal investigation. See Chapter 4 Use of Force Critical Incident Response for further specific guidance on critical incidents.
    - iii. The involved FHFA-OIG SA(s) and any FHFA-OIG SA(s) who witnessed the incident will provide their BWCs to the on-scene FHFA-

OIG supervisor. If the FHFA-OIG on-scene supervisor is involved in or witnessed the critical incident, the BWCs will be provided to the next senior FHFA-OIG agent on scene. Once collected, all the BWC captured recordings will be uploaded in accordance with this policy. If the incident involved all FHFA-OIG personnel present at the scene, the BWCs will be turned over to an uninvolved FHFA-OIG SA as soon as possible.

- c. Internal Investigations. FHFA-OIG personnel conducting an internal investigation may review relevant BWC recordings prior to conducting interviews with witnesses or subject(s) of the investigation. A written request to review the relevant recordings, stating the reason(s) for the request, will be submitted to the AIGI for authorization. A copy of the executed memorandum will be maintained by the BWC Program Manager and included in the official case file.
- d. Training. BWC recordings created during FHFA-OIG training will be deleted after the National Use of Force Coordinator or designee reviews the recordings for teachable scenarios and confirms it is acceptable to delete the recording.
- e. OI Supervisory Review. OI supervisors may view BWC recordings to conduct after-action debriefings.

See BWC Critical Incident Checklist for additional information.

#### **Q. BWC Equipment Training**

1. All SAs must attend an agency-approved training program to learn how to deploy BWCs properly and to ensure compliance with FHFA-OIG policy. Additional periodic training will be provided to ensure continued proficiency.
2. To ensure operational readiness and proficiency in the use of BWCs, the BWC Program Manager will remain aware of significant issues impacting the use of BWCs, such as changes in technology and law. This may be accomplished by close liaison with federal law enforcement partners; communication with the BWC vendor; review of relevant statutes, regulations, and caselaw; or attending training or conferences.

#### **R. Treatment of BWC Recordings and Requests for Release**

1. BWC recordings shall be treated as law enforcement sensitive information. BWC recordings will also be treated as potential evidence in an investigation subject to applicable federal laws, rules, and policies concerning any such disclosure and, therefore, deemed privileged absent appropriate redaction prior to disclosure.
2. All requests for FHFA-OIG BWC recordings unrelated to a pending FHFA-OIG criminal investigation or case will be forwarded to the Office of 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.



## **S. Expedited Public Release of BWC Recordings Involving Serious Bodily Injury or Death**

1. FHFA-OIG will publicly release BWC recording(s) that depict conduct by an FHFA-OIG SA resulting in serious bodily injury or death of another, unless the IG determines specific and compelling grounds exist to justify withholding such recordings that cannot be resolved by redaction, partial withholding, or other means. Such BWC recording(s) may be withheld only upon a written approval by the IG that documents the justification for withholding the recording(s).
2. The DIGI will consult the Office of Counsel if there is any question as to whether any injury resulting from the recorded event constitutes “serious bodily injury,” and is thus subject to the expedited public release requirement.
3. There is a presumption that FHFA-OIG review, redact, and release BWC recording(s) that depict an incident resulting in the serious bodily injury or death of another as soon as practical. If FHFA-OIG determines exigent circumstances exist, the following procedure for expedited public release will apply:
  - (1) OI will immediately notify the IG, PDIG, and Chief Counsel.
  - (2) OI will coordinate an expedited review of the BWC recording(s) to determine whether public release of such BWC recordings is appropriate and what redactions are required prior to the release. In making this assessment, the DIGI (or designee) will consult with the IG, PDIG, and Chief Counsel; the applicable United States Attorney’s Office (USAO); any other law enforcement agency with involved personnel; and the investigating federal, state, or local agency.
  - (3) The DIGI (or designee) will coordinate the redaction of the BWC recordings with the SAC (or designee), BWC Program Manager, and Chief Counsel.
  - (4) Upon completion of the review and consultation process, the DIGI will approve the request for public release of the redacted recording(s), unless, in consultation with the Chief Counsel, the DIGI believes that there are specific and compelling grounds justifying denial of the request that cannot be resolved by redaction, withholding portions of the BWC recording(s), or other means. In such cases, the DIGI will forward a written recommendation and justification to deny release through the PDIG to the IG for final decision. If the IG determines there are specific and compelling grounds to justify withholding the BWC recording(s), which cannot be resolved by redaction, partial withholding, or other means, the IG will issue a written decision and justification to deny release. The IG’s written decision and justification will be included in the official case file.
  - (5) If the IG determines that exigent circumstances, including the need to maintain public safety or preserve the peace, necessitate accelerating the release timeline, FHFA-OIG will devote all necessary resources to review,

redact, and publicly release the BWC recording(s) at the earliest possible time, no later than 72 hours from the determination of exigent circumstances. Exceptions will be exceedingly rare and must be personally approved in writing by the IG upon a finding of compelling circumstances. The IG's written approval to exceed 72 hours will be included in the official case file.

- (6) If the request for public release is granted, the DIGI will consult and coordinate the timing and manner of release with the IG, PDIG, Chief Counsel, SAC, the USAO, and other involved law enforcement agencies. OI and the BWC Program Manager will provide the version of the recording(s) that will be released.
- (7) OI, the Office of Counsel, and Office of Chief of Staff will coordinate FHFA-OIG's response to the public release or denial.

### **III. RETENTION**

This policy belongs to the Office of Investigations and is subject to review every year or if revisions are required due to changes in law or federal policy.