



FHFA-OIG Body Worn Cameras Policy

August 22, 2022

Summary: Establishes the use and wearing of body worn cameras for the Office of Investigations

Approval:

Michael J. Mullaney, Deputy Inspector General for Investigations

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 FHFA-OIG's temporary policy regarding Body Worn Cameras (BWCs). These guidelines are subject to change once equipment has been purchased and training has occurred.

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. This can help resolve complaints made against agency personnel and possible wrongdoing by third parties.

While BWC recordings may enhance OI's 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.

II. POLICY

A. Joint Agency Operations

1. SAs shall comply with FHFA-OIG BWC policy when conducting enforcement operations 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. Whenever possible, the FHFA-OIG enforcement operation team leader shall discuss the use of BWCs with other joint agency team leader(s) prior to an operation. Ideally, this should occur at or before the operation's briefing. 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.

B. When to Deploy BWCs

1. 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.

2. Other Investigative Activity

During other investigative activity, SAs may use BWCs when their use is in accordance with other FHFA-OIG policy (for example, when conducting interviews). The deployment of BWCs is not intended to replace existing OIG policy regarding interviews or other evidence collection.

C. Placement of BWCs

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 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.

D. Activation and Deactivation of BWCs

1. During enforcement operations, SAs will activate their BWCs 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. Upon activation, SAs shall verbally state, "*Body camera activated,*" his/her name, location, and the date and time.
2. To ensure the integrity of BWC recordings, the BWC must continuously operate until the activity is over, unless the SA engages in a restricted use activity, as outlined under D.7, below.
3. During enforcement operations, SAs shall deactivate their BWCs at the direction of the FHFA-OIG team leader or designated onsite supervisor. Prior to deactivating the BWC, the SA will state "*Body camera deactivated,*" his/her name, location, 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.

4. When executing a search warrant, the FHFA-OIG team leader or designated onsite supervisor can authorize the team to deactivate the BWC once the location to be searched has been secured and deemed safe. The FHFA-OIG team leader or designated onsite supervisor will use his or her discretion to determine whether team members participating as outside cover during the execution of the warrant should continue to record. If during the execution of a warrant the team leader or onsite supervisor determines that a particular activity should be recorded, e.g., breaching a safe, a BWC may be reactivated until the particular activity is completed.
5. When executing an arrest warrant or arresting an individual during the execution of a search warrant, the FHFA-OIG 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. FHFA-OIG agents 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. BWCs should be activated during the operational stage of an enforcement activity, until the scene has been secured and deemed safe.
7. **RESTRICTIONS ON USE.** 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 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 onsite supervisor will inform the BWC Program Manager and note this occurrence in the Memorandum of Investigation (MOI) 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.¹
 - d. When SAs receive medical attention.

¹ Subjects of arrest and occupants of a search warrant location do not enjoy any reasonable expectation of privacy during the operational phase of an enforcement activity. If BWCs are not deactivated after the scene has been secured and deemed safe, SAs may cover the BWC so activity requiring privacy is not captured on video or will be subsequently redacted in the system. However, SAs should make every effort to continue to capture audio during this activity.

E. Uploading and Storage of BWC Footage²

BWC recordings will be uploaded as soon as possible, usually within 48 hours, and stored in an FHFA-OIG cloud storage service. Access to the recordings will be controlled by the BWC Program Manager.³ 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.

F. Records and Evidence 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 are agency records and should be disposed of in accordance with FHFA-OIG's records retention policy. For BWC recordings deemed evidence, the SA will adhere to FHFA-OIG's evidence policy.

G. BWC Equipment

SAs should 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.

H. 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 within 24 hours of 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.

I. BWC Recordings

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. 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.

² Equipment has not been purchased; final procedures will be dependent on the capabilities of the equipment.

³ OI will appoint a BWC Program Manager who will act as the custodian for FHFA-OIG BWC videos and equipment.

J. Deleting BWC Recordings

Any request to delete a portion, portions, or entire recordings must be submitted in writing and approved by the AIGI or DIGI. The request must be made in a memorandum and must state the reason(s) for deleting the recording. The approved memorandum will be provided to the SAC and the Office of Counsel. The recording will only be deleted after the approved memorandum is received by the SAC. All requests and final decisions will be maintained by the BWC Program Manager.

K. Access of BWC Recordings

Access to BWC storage systems will be audited periodically by the BWC Program Manager to ensure that only authorized users are accessing the data for authorized purposes. Only those personnel and their managers with an official need to know who are given the appropriate permissions/assigned roles may view BWC content. Any other requests to review BWC recordings must be made in a memorandum to the BWC Program Manager. The memorandum must outline the reason(s) for the request.

L. Training

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.

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, or attending training.

M. Treatment of BWC Recordings and Requests for Release

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. All requests for OIG BWC recordings unrelated to a pending 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. OI BWC recordings are controlled by, and the property of, OIG and will be retained and managed by OIG.