



<b>Office of Law Enforcement Policy Manual</b>	
<b>5.14 Body Worn Cameras</b>	
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James Landon, Director	

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**5.14.1 Policy**

It is the policy of the NOAA Office of Law Enforcement (OLE) that special agents and enforcement officers wear and activate body worn cameras in accordance with Executive Order 14074, “*Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*” (May 25, 2022), and Department of Justice memorandum, “*Body-Worn Camera Policy*” (June 7, 2021).

This policy does not govern the use of surreptitious recording devices in undercover operations or the recording of interviews.

OLE is currently assessing body worn camera solutions and requirements in order to fully implement this policy. This includes acquisition of the selected solution, distribution of equipment, and training of OLE personnel.

**5.14.2 Purpose**

The purpose of this policy is to establish procedures and provide guidance for the appropriate use of body worn cameras (BWC) by OLE sworn personnel. This policy does not apply to digital or electronic media recordings from non-BWC digital cameras, closed circuit television, unmanned aerial systems (UAS), telecommunications devices, or any other camera sensor device collected by OLE now or in the future.

### 5.14.3 Required Use of Body-Worn Cameras

OLE sworn personnel, which includes all special agents (ZA-1811) and enforcement officers (ZA-1801), are required to wear and activate BWC recording equipment to record their actions during all pre-planned enforcement operations. For the purposes of this policy, pre-planned enforcement operations are defined as: (1) any pre-planned attempt to serve an arrest warrant or other pre-planned arrest, including the apprehension of fugitives sought on state and local warrants, and (2) any execution of a search or seizure warrant or order.

### 5.14.4 Applicability and Deviations

This policy applies to all pre-planned enforcement operations in which OLE sworn personnel participate, regardless of whether NOAA or another agency is the lead operation. When conducting enforcement operations with a partner law enforcement agency that deploys BWCs, OLE sworn personnel will comply with OLE policy. Prior to a joint operation using BWCs, the Deputy Special Agent in Charge (DSAC) overseeing the operation shall notify the Assistant Director of the Division and the OLE Deputy Director of any unresolved conflicts with any partner law enforcement agency regarding BWC deployment. The Division Assistant Director and/or Deputy Director will present this information to the OLE Director. Any deviation from this policy must be approved, in writing, by the Director. Under exigent circumstances, an oral authorization may be given by the Director, but must be subsequently approved in writing.

### 5.14.5 Body Worn Camera Equipment

- A. Body-Worn Camera Usage. OLE sworn personnel will only use BWCs issued by OLE. OLE sworn personnel will exercise reasonable care when using BWCs to ensure their proper functioning, and will ensure BWCs are fully charged before deployment. OLE sworn personnel will notify their supervisor of any equipment malfunctions as soon as possible in order to facilitate equipment any necessary repair or replacement.
- B. Loss or Theft of Body-Worn Cameras. OLE sworn personnel will 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 will notify the Director, through their chain of command, as soon as possible.

### 5.14.6 Use of Body-Worn Cameras

- A. Placement of Body-Worn Cameras. The BWC should be worn in accordance with manufacturer's recommendations, usually on the outside of the ballistic vest or outermost garment to ensure the best field of view. OLE sworn personnel will make reasonable efforts to ensure the BWC's view is not obstructed. OLE sworn personnel will not alter tactically sound principles to accommodate the BWC's visual recording. OLE sworn personnel will continue 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 recording coverage.

- B. Pre-Operational Planning. All OLE sworn personnel participating in a pre-planned enforcement operation, as defined in section 5.14.3, will be equipped with BWCs and will activate them during the operation. Prior to conducting any such operation, the Assistant Special Agent in Charge (ASAC), Supervisory Enforcement Officer (SEO), or on-scene team leader will conduct a briefing regarding the planned use of BWCs, including discussing steps that can be taken to avoid recording undercover personnel or confidential informants.
- C. Joint Operations. When conducting operations with another law enforcement agency, OLE sworn personnel will comply with OLE's BWC policy. The on-scene OLE team leader for the enforcement operation will discuss the use of BWCs with the other agency's team leader prior to the operation; see section 5.14.4 above.
- D. Activation of Body-Worn Cameras. During all pre-planned enforcement operations, OLE sworn personnel will activate their BWC at the direction of the on-scene team leader. The on-scene team leader will determine when to activate the BWCs and will ensure that each member of the team has activated the BWC prior to beginning the operation. Upon activating the BWC, the sworn personnel will state that the BWC is activated, their name, the date, and time. While wearing a BWC, if an OLE sworn personnel encounters an individual who is uncooperative, violent, assaultive, or who discusses criminal conduct that in the OLE sworn personnel's judgment could lead to use of physical or deadly force or be relevant to an investigation, OLE sworn personnel should activate and record with his/her BWC if it is safe to do so.
- E. Deactivation of Body-Worn Cameras. During all pre-planned operations, sworn personnel will only deactivate their BWCs at the direction of the on-scene team leader. Prior to deactivating the BWC, the sworn personnel will verbally state the date, time, and reason for the BWC's deactivation. When executing a search warrant, the on-scene team leader may authorize the team to deactivate the BWC once the searched location has been secured and all subjects have been searched. The on-scene OLE team leader will use their discretion to determine whether team members participating as outside cover during the enforcement operation should not continue to record (i.e., if the outside cover is unlikely to encounter any subjects unless called in as backup; at which time they would activate their camera). When executing an arrest warrant or arresting an individual during the execution of a search warrant, the on-scene OLE team leader may authorize the deactivation of most BWCs once they have determined the scene is secure and any arrestees are handcuffed and placed in the transport vehicle. Any OLE sworn personnel remaining with the arrestee will keep their BWCs activated. If an OLE sworn personnel activates their BWC during an encounter with an uncooperative, violent, assaultive, threatening individual, or one who discusses criminal conduct with them, they should deactivate their BWC once the contact has concluded and it is safe to do so.

**Exceptions.** The on-scene OLE team leader may authorize OLE sworn personnel to deactivate their BWCs if the pre-planned enforcement operation is of such duration that BWCs need to be deactivated to conserve power and/or for temporary storage. OLE sworn personnel may also deactivate their BWC if they need to obtain emergency medical attention or need to attend to a personal matter, such as using the restroom, which takes them away from a planned operation. In these circumstances, if safe to do so, the special agent or officer will record the reason why they are deactivating their camera.

F. Failure to Activate Body-Worn Cameras. If a special agent or enforcement officer fails to activate the BWC as required or fails to record the entire contact outside of an allowable exception listed in (E) of this section, or otherwise interrupts a recording, they will document, in a memorandum, through their chain of command to the Director, the following information:

- 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 or the unauthorized termination of a BWC recording may result in disciplinary action.

G. Restrictions on Use. OLE sworn personnel equipped with BWCs must be mindful of locations where recording may be considered inappropriate, or prohibited by privacy laws. BWCs shall only be used in conjunction with official law enforcement duties. BWCs will not be used to record:

- personal activities unrelated to required operational use,
- undercover operations,
- discussions involving law enforcement tactics and procedures,
- classified information,
- locations where individuals have a reasonable expectation of privacy, such as a restroom or locker room, without the written permission of the Director. In locations where there is a reasonable expectation of privacy the OLE sworn personnel must ask permission before recording with the BWC unless he/she cannot ask permission because it would be unsafe to do so, hamper a law enforcement investigation, warrant, arrest, or involve some other exigent circumstance. A written explanation shall be forwarded to the Director regarding any activation due to exigent circumstances immediately after the use, or
- while he/she does not physically have the camera on their person.

### **5.14.7 Documenting Use of Body-Worn Cameras**

Upon the conclusion of the pre-planned enforcement operation, the case agent or officer will document that recordings were made and provide a summary of the activity including:

- the names of the team members participating in the operation,
- whether or not all OLE sworn personnel 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 BWC recording was interrupted or terminated during operation, and
- reason for the use.

### 5.14.8 Body-Worn Camera Recordings

- A. Handling of Recordings. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of OLE. Unauthorized accessing, copying, or releasing of BWC files is strictly prohibited. All recordings are considered, and will be treated as, law enforcement sensitive information (CUI/INV; related to information obtained during the course of a law enforcement investigation or action, civil or criminal). OLE sworn personnel shall not edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute in any manner any BWC recording to any outside entity without prior written authorization from the Director, in consultation with the Office of General Counsel Enforcement Section (GCES) and, if applicable, the Department of Justice or other prosecuting attorney.
- B. Records Retention. All BWC recordings shall be maintained in accordance with DOC, NOAA and OLE records retention schedules.
- C. Saving Recordings. BWC recordings will be saved as soon as possible, usually within 24 hours, and digitally stored in a secure location in accordance with the manufacturer's recommendations and OLE procedures. Each recording file will contain the date and time of the recording, BWC identifier, and assigned OLE sworn personnel. A BWC log will be created, detailing the history of every recording. If the BWC software creates an audit log, this log will be included and will be considered the official audit log.
- D. Recording of Significant Incidents. If a use-of-force incident or other significant activity occurs during an operation, the ASAC, SEO or on-scene team leader will notify their supervisor and the AD of the recorded event as soon as possible. Any associated BWC recordings will be retained as evidence in accordance with the process described in 5.14.8(E).
- E. Recordings as Evidence. If the BWC recording is to be used as evidence, the case agent/officer will create an evidence copy containing the recording and enter it into evidence. The case agent/officer will complete an Investigation Report, detailing the transfer of data from the BWC or digital storage location to the evidence digital storage media, as well as the chain of custody for the digital storage media containing the recording. If needed, a working copy of the BWC recording may be kept by the case agent until the final disposition of the case.

- F. Expedited Public Release: If an OLE BWC recording depicts conduct resulting in serious bodily injury or death of another, OLE shall notify the relevant United States Attorney's Office (USAO) as soon as possible. OLE and the USAO will expeditiously review the recording 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, OLE may immediately release the recording with any agreed-upon redactions, giving as much advance notice as possible to the USAO as to the time and manner of its release.