





# Body-Worn Camera Policy

## I. Background

### A. Policy Development

This policy addresses the OPM OIG Office of Investigations (OI) body-worn camera program that is currently in development.

Parts of this policy are contingent on the availability of OPM OIG-issued body-worn cameras for OPM OIG special agents. This policy applies to all OPM OIG special agents who have been issued a body-worn camera. This policy mandating the use of a body-worn camera will only apply to OPM OIG special agents who have been provided an OPM OIG-issued body-worn camera.

This policy will fully take effect upon the purchase and acquisition of body-worn camera equipment, the training of OPM OIG special agents in the use of that equipment, the conclusion of any pilot and training programs, and the development and deployment of the OPM OIG body-worn camera program.

### B. Importance of Body-Worn Cameras to Increase Policing Transparency

Body-worn cameras can improve public trust, transparency, and accountability where the use of force can be reasonably anticipated during planned law enforcement operations by OPM OIG special agents.

Body-worn cameras also provide an additional layer of safety for OPM OIG special agents.

These devices document contact between OPM OIG special agents and others during planned law enforcement operations, which can help resolve complaints made against the special agent and protect the special agent from inaccurate allegations of misconduct.

### C. Body-Worn Camera Policy Relationship to Other Office of Investigations Policies

Body-worn cameras may record things that a special agent did not see, hear, or perceive in a real-time interaction. But body-worn camera recordings are also limited by what the camera can perceive, and a special agent may have heard or seen things not recorded by the body-worn camera. This policy does not supersede existing OIG policies for the collection of evidence, conducting interviews, or investigative technique policies, including the OPM OIG *Use of Force policy*.

### D. Definitions

In this policy, a **body-worn camera** is an OPM OIG-provided device used to record video and audio of interactions between OPM OIG special agents and other individuals where the use of

force may reasonably occur. The video and audio recorded by a body-worn camera and stored by the OPM OIG according to this policy is for use by law enforcement to document OPM OIG law enforcement interactions and give transparency to law enforcement actions where the use of force may reasonably occur.

## **II. Body-Worn Camera Program Coordinator**

The Assistant Inspector General for Investigations (AIGI) or their designee will assign an OPM OIG OI employee to be the body-worn camera program coordinator.

The body-worn camera program coordinator, and any relevant designees or associated staff, oversees the use of body-worn cameras and the OPM OIG OI body-worn camera program.

Duties of the body-worn camera program coordinator include:

- Training or arranging training (in coordination with the training agent) on the use of body-worn cameras. This is both to comply with any training requirements and ensure special agents know when to use their body-worn camera and feel comfortable doing so.
- Maintaining auditable logs of all body-worn camera recordings.
- Periodic review or inspections of body-worn cameras to ensure equipment is operating properly and special agents are using the devices appropriately and in accordance with this policy.

## **III. Training for the use of Body-Worn Cameras**

All OPM OIG special agents will complete initial and recurring training to establish and maintain proficiency and knowledge related to body-worn camera deployment, use, and operation.

## **IV. Body-Worn Camera Equipment**

### **A. Use of Body-Worn Camera Equipment**

Special Agents shall protect and conserve Federal property, including the body-worn camera and related equipment, and shall not use it for other than authorized activities. Special agents will exercise reasonable care when using body-worn cameras and related equipment to ensure proper functioning of the devices.

Special agents will ensure that the body-worn camera is fully charged before deployment.

### **B. Types of Body-Worn Cameras Authorized for Use**

The only type of body-worn camera authorized for use by OPM OIG special agents conducting OPM OIG operations are body-worn cameras provided by the OPM OIG.

Additionally, OPM OIG special agents must follow all policies and procedures related to the storage of audio and video captured by their body-worn cameras, as detailed in this policy.

OPM OIG special agents are not authorized to use a personal body-worn camera device.

### **C. Equipment Malfunctions**

Special agents will notify their supervisor (e.g., their Assistant Special Agent in Charge) and the body-worn program coordinator of any equipment malfunctions as soon as possible after discovering the malfunction.

### **D. Loss or Theft of Equipment**

Special agents will notify their supervisor immediately, but no later than within 24 hours of the discovery of the loss or theft of a body-worn camera.

The supervisor (Assistant Special Agent in Charge) will notify the Special Agent in Charge and the body-worn camera program coordinator.

## **V. Failure to Activate a Body-Worn Camera or Termination of a Body-Worn Camera Recording**

Failure of an OPM OIG special agent to activate a body-worn camera as directed or required by this policy may result in disciplinary action.

Unauthorized termination or inappropriate use of a body-worn camera recording may result in disciplinary action.

Any misuse of a body-worn camera, including for personal use, may result in disciplinary action.

## **VI. Deployment, Activation, and Deactivation of Body-Worn Cameras**

### **A. Circumstances Requiring the Use of Body-Worn Cameras**

OPM OIG special agents must wear and activate their body-worn camera to record their actions during the tactical portion of enforcement operations where the use of force is reasonably anticipated. This includes the planned execution of a search warrant or an arrest.

Body-worn cameras will be used during other enforcement operations where the use of a body-worn camera is appropriate for the proper performance of official duties and where recording is consistent with OI policy and the law.

Body-worn cameras may be deployed when, based on the training and experience of the special agent, a situation could lead to the use of force or where it may be prudent to record their interactions (e.g., for transparency). OPM OIG special agents must request approval from their supervisor to deploy body-worn cameras for this purpose.

## **B. Circumstances Prohibiting the Use of Body-Worn Cameras**

Body-worn cameras will not be used for recording interviews or for only evidence collection purposes.

## **C. Activation of Body-Worn Cameras**

OPM OIG special agents must activate their body-worn cameras during planned law enforcement activities where a use of force may be reasonably anticipated, such as the planned execution of a search warrant or arrest.

The OPM OIG special agent leading an operation will inform all personnel participating in the enforcement operation and equipped with a body-worn camera when to activate their body-worn cameras. Body-worn cameras will be activated at the beginning of a law enforcement action. Activation will generally be when approaching the persons or premises that is the subject of the operation for preplanned arrests or searches. Body-worn cameras will be programmed to record for a specified period prior to activation and after deactivation (buffering period). This footage will be preserved along with the recording after activation occurs.

If an OPM OIG special agent wearing a body-worn camera encounters an individual who is uncooperative, violent, assaultive, or discussing criminal conduct that could (in the professional judgement of the special agent) lead to the use of force, the special agent should activate and record the encounter using the body-worn camera as soon as it is safe and practicable.

In the interest of transparency and to ensure the integrity of the recordings, body-worn cameras must remain activated until the activity is completed, unless the contact moves into an area restricted by this policy.

## **D. Exceptions to Activating Body-Worn Cameras During Required Law Enforcement Activities**

OPM OIG special agents using body-worn cameras will attempt to be mindful of locations where recording may be:

- Insensitive
- Inappropriate
- Prohibited.

Additionally, body-worn cameras will not be used to record:

- Operational or law enforcement-sensitive communications with other law enforcement personnel.
- Undercover operations, including preplanned arrests or searches involving undercover employees or other covert personnel.
- The execution of search warrants or orders for records or data when said execution does not involve entry of a physical location (e.g., a search warrant for emails issued to Google or Microsoft).

- Searches of property lawfully in Government custody or control.
- OI workplaces (e.g., regional field offices).
- Routine activities unrelated to enforcement.
- Locations where individuals have a reasonable expectation of privacy and have not consented to the recording (e.g., restrooms and locker rooms).

An OPM OIG special agent requesting to record in one of these excepted places or situations can only do so if they receive express written permission from the OPM OIG AIGI.

Special agents are not expected to activate their cameras when it would be unsafe, impractical, or impossible to do so.

## **E. Deactivation of Body-Worn Cameras**

### **1. General Deactivation Statement**

If, for any reason, a special agent deactivates a body-worn camera, the special agent will verbally state the reason for the deactivation, the date, and the time **prior to deactivating the body-worn camera**.

### **2. Permission to Deactivate a Body-Worn Camera (Planned Operations)**

Special agents will only deactivate their body-worn camera at the direction of an operation's lead OPM OIG special agent.

An operation's lead OPM OIG special agent can direct other OPM OIG special agents to deactivate their body-worn cameras, which will generally be when the site is safe and under law enforcement control.

Reasons for deactivation of a body-worn camera include:

- Battery conservation, if authorized by an operation's lead OPM OIG special agent. (This does not negate the Section IV(A) requirement that all body-worn cameras should be fully charged before a law enforcement operation.)
- For the OPM OIG special agent to obtain medical attention.
- For the OPM OIG special agent to attend to a non-law enforcement personal matter (e.g., using the restroom).
- The operation becomes restricted or exempted according to the recording policy (as described above).
- Those exceptions identified in Section VI(D).

## **VII. Joint Operations**

OPM OIG special agents will comply with and follow OPM OIG policy, regardless of any agency that may be the lead in a joint operation.

The OPM OIG AIGI may determine that the use of a body-worn camera is not prudent during a joint operation and authorize in writing that the OPM OIG special agents participating do not have to use their body-worn cameras during the joint operation. Any deviation from the OPM OIG policy in this way will be documented in writing with the rationale and placed in the appropriate OI case file.

In accordance with any applicable privacy laws, the body-worn camera program coordinator will coordinate the sharing of recordings related to joint law enforcement operations with the other participating agencies as necessary and will request that other participating law enforcement agencies share their recordings as well. When sharing OPM OIG body-worn camera recordings with other agencies, the body-worn program coordinator will inform that agency that it may not share OPM OIG recordings with anyone outside of that agency without the express written permission of the AIGI, DIG, or IG.

## **VIII. Documenting the Use of Body-Worn Cameras**

### **A. Documentation in the Investigative Tracking System**

After the conclusion of a law enforcement activity or operation where a special agent used a body-worn camera to make a recording, the case agent will document the usage in a Memorandum of Activity (MOA).

The MOA will follow the relevant timeliness guidelines for MOA set forth in the OPM OIG *Reports and Report Writing Policy*.

### **B. Contents of Body-Worn Camera Recording Memorandums of Activity**

An MOA documenting the use of a body-worn camera will include:

- Names of the team members (e.g., the OPM OIG special agents) participating in the operation, activity, or incident.
- Whether all special agents wore body-worn cameras during the operation, activity, or incident.
- Whether all body-worn cameras were activated prior to the operation, activity, or incident.
- If any body-worn cameras malfunctioned or were inoperable during the activity, operation, or incident.
- If any body-worn cameras were not activated prior to or during the activity, operation, or incident.
- If any body-worn cameras were turned off during the activity, operation, or incident.
- If any body-worn camera recordings were interrupted or terminated during the activity, operation, or incident.



### **C. Documentation of Failure to Activate Body-Worn Camera**

If an OPM OIG special agent fails to activate their body-worn camera, fails to record an entire contact that should be recorded according to this policy, or interrupts the recording, the special agent will document in the MOA why the recording was not made, interrupted, or terminated.

## **IX. Download and Storage of Body-Worn Camera Recordings**

The download and storage of body-worn camera recordings is governed by the technological solutions and environment of the OPM OIG's body-worn camera program.

All body-worn camera recordings will be downloaded and securely saved for storage as appropriate and according to records retention policies in this document.

Each body-worn camera recording will have an associated date and time of recording, recording identifier, and an identified lead or case agent.

## **X. Records Retention**

### **A. Recordings Associated with Use of Force Incidents and Complaints or Allegations Against OPM OIG Special Agents**

Body-worn camera recordings associated with use of force incidents that involve OPM OIG special agents or complaints or allegations that involve OPM OIG special agents will be retained as evidence and retained according to the OPM OIG *Evidence and Grand Jury Materials* policy, in consultation with the OPM OIG Office of Legal and Legislative Affairs (OLLA) and as directed by the AIGI, a Federal or State prosecutor, or other investigating agency.

### **B. Recordings Not Associated with Complaints or Allegations**

Body-worn camera recordings that are not associated with complaints, allegations, or use of force incidents involving OPM OIG special agents or staff will be retained in compliance with records retention requirements following case closure unless a request is provided in writing to the body-worn camera program coordinator through the AIGI or their designee.

### **C. Recordings Associated with Training Exercises**

Body-worn camera recordings associated with normal training exercises (e.g., a training exercise where there is no reported injury) will be retained in compliance with records retention requirements.

## **XI. Body-Worn Camera Recordings**

OPM OIG body-worn camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment are the sole property of the OPM OIG.

Special agents will **not** edit, alter, erase, duplicate, copy, share, or otherwise release, disclose, or distribute any body-worn camera recording in any manner without prior written authorization from the AIGI.

Unauthorized access, copying, or release of body-worn camera recordings or files is prohibited.

## **XII. Deleting Recordings**

Any request to delete a portion or portions of a recording (for example, in the case of an accidental recording) must be submitted in writing. The request will include the specific reason for requesting the recording be deleted.

The IG, DIG, or the AIGI in consultation with the Assistant Inspector General for Legal and Legislative Affairs (AIGL) must approve all deletion requests in writing. A memorandum will authorize the deletion or explain the reasons for not approving the request for deletion. The memorandum will be filed in the appropriate case OI case file.

The body-worn camera program coordinator may delete the recording only after receiving an approved memorandum authorizing the deletion.

## **XIII. Access and Review of Body-Worn Camera Recordings**

### **A. Prohibited Reviews of Body-Worn Camera Recordings**

Viewing of body-worn camera recordings at the scene of an incident is prohibited.

### **B. Permitted Reviews of Body-Worn Camera Recordings**

OPM OIG special agents are entitled to access the audio and video derived from their issued body-worn camera recording when it is reasonable and necessary for the special agent to access the body-worn camera recording to perform essential functions of their job. This includes but is not limited to a review necessary to create an MOA describing a recorded operation.

An OPM OIG special agent may also access body-worn camera recordings when necessary to respond to allegations of administrative or criminal misconduct related to the recorded enforcement activity, **with the following limitations:**

#### **1. Administrative investigation of a special agent's conduct related to a recorded enforcement activity.**

When a special agent is subject to an administrative investigation related to a recorded enforcement activity, the special agent may review their own body-worn camera recording prior to being interviewed (by either OPM OIG OI personnel or non-OIG personnel) about allegations related to the special agent's conduct.

The special agent may review a copy of their own body-worn camera footage with their attorney or other representative.

The special agent, the special agent's attorney, or other representative for the special agent will not be permitted to make or take a copy of the recording.

## **2. Following a Use of Force incident (including the discharge of a firearm)**

Following a use of force incident or discharge of a firearm, the special agent will be given an opportunity to view their own body-worn camera recording **prior** to giving a formal statement.

Special agents who are witnesses to a special agent-involved shooting or use of force incident will also be allowed to view **their own** body-worn camera recording prior to giving a formal statement.

### **C. Internal Investigations**

OPM OIG special agents who are conducting an official internal investigation of another OPM OIG special agent may request permission to review body-worn camera recordings.

The investigating special agents must request permission to review the subject special agent's body-worn camera recording in a memorandum to the AIGI. The memorandum will state the reason for the request and will be filed in the appropriate case file.

### **D. Access and Review of Body-Worn Camera Recordings**

All instances where access to a recording is granted will be audited to ensure that only authorized persons are accessing the data for legitimate and authorized purposes.

Any requests to review body-worn camera recordings—except for permitted reviews as specifically stated elsewhere in this policy (for example, a special agent may review their body-worn camera footage to write an MOA)—must be made in a memorandum to the AIGI. The request must state the reasons for requesting to review the recording.

### **E. Training**

Body-worn camera recordings may be used for training purposes.

Access to body-worn camera recordings for training purposes will be coordinated through the body-worn camera program coordinator, in consultation with OLLA. OLLA will obtain the written permission of any OPM OIG personnel whose recordings or images are or would be depicted in any training videos or materials.

## **F. Supervisory Reviews of Body-Worn Camera Recordings**

### **1. Permitted Review for After-Action Debrief and Training**

Supervisors are permitted to view body-worn camera recordings to conduct “after-action debriefs” and for training purposes as described elsewhere in this policy.

Requests to review body-worn camera recordings for this purpose require the written approval of the AIGI. The supervisor will document the request in a memorandum that states the reason for the review.

### **2. Prohibited**

Generally, with the exception of a supervisor’s “after-action debrief” referenced above, body-worn camera recordings **will not** be reviewed or used solely for the purpose of evaluating an OPM OIG special agent’s performance during an operation. A supervisor may request an exception to this prohibition by submitting a request in writing to the AIGI, who will obtain legal guidance from OLLA.

Body-worn camera recordings **will not** be reviewed solely for conducting performance appraisals.

## **XIV. Disclosure of Body-Worn Camera Recordings**

All requests for disclosure of body-worn camera recordings or related information will be forwarded to the body-worn camera program coordinator, with a cc to the AIGI.

The body-worn camera program coordinator will prioritize and expedite the review of all requests for body-worn camera recordings that involve the serious bodily harm, injury, or death of any individual.

### **A. Redacting Recordings**

The body-worn camera program coordinator and OLLA will make, oversee, and approve any redactions to body-worn camera footage prior to any disclosure.

### **B. Body-Worn Camera Recordings as Law Enforcement Sensitive Information**

In all instances, OPM OIG body-worn camera recordings will be treated as law enforcement sensitive information. The premature disclosure of law enforcement sensitive information could reasonably be expected to interfere with enforcement proceedings.

Body-worn camera 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 body-worn camera recordings unrelated to pending OPM OIG criminal investigations or cases will be forwarded to the body-worn camera program coordinator and OLLA, who will coordinate the response for such requests.

Nothing in this policy will be deemed to provide a right of public access to OPM OIG body-worn camera recordings. OPM OIG body-worn camera recordings are controlled by and are the property of the OPM OIG and will be retained and managed by the OPM OIG OI.

### **C. Expedited Public Release of OPM OIG Body Worn Camera Recording(s).**

If OPM OIG body worn camera recording(s) depicts conduct resulting in serious bodily injury or death of another, the OPM OIG shall notify the United States Attorney as early as possible if it desires to publicly release the body-worn camera recording(s). The OPM 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, the OPM 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.

### **D. Freedom of Information Act Requests**

Body-worn camera recordings can be subject to release pursuant to Freedom of Information Act (FOIA) requests.

Any FOIA requests for the release of body-worn camera recordings will be forwarded to the body-worn camera program coordinator and OLLA. The body-worn camera program coordinator and OLLA will coordinate to release recordings in an expeditious manner, taking into account any applicable FOIA exemptions, to satisfy the FOIA request as necessary or required by law.

### **E. Privacy Act Referrals**

The Privacy Act of 1974 (Title 5 United States Code Section 552a) provides safeguards for individuals against an invasion of personal privacy through the misuse of records by Federal agencies. The Privacy Act balances the individual's personal privacy interest against the Government's need to maintain information about individuals.

OPM OIG special agents will follow agency procedures for Privacy Act referrals. OLLA will coordinate with OI to respond to Privacy Act referrals related to body-worn camera recordings to satisfy any legal requirements or response.