



## USE OF BODY-WORN CAMERAS BY FEDERALLY DEPUTIZED TASK FORCE OFFICERS

The Department of Justice (Department or DOJ) permits the use of body worn cameras (BWCs) by task force officers (TFOs) on federal task forces. This policy provides the parameters for the use of BWCs by TFOs to the extent that a state or local law enforcement agency<sup>1</sup> requires their use by its officers during federal task force operations. DOJ law enforcement agencies may issue internal standard operating procedures to implement TFO use of BWCs consistent with this policy.<sup>2</sup> For purposes of this policy, the term, “TFO BWC recordings,” refers to audio and video recordings and associated metadata from TFO BWCs made while the TFO is working under federal authority, including state and local warrants adopted by a federal agency.

### I. BACKGROUND

The Department of Justice partners with state and local law enforcement agencies throughout the nation on joint task forces. This relationship is vitally important to the Department and its mission to protect our communities. Several of these participating state and local agencies have implemented internal policies mandating the use of BWCs and have requested that their officers wear BWCs while conducting planned arrests and

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<sup>1</sup> This policy applies equally to tribal and territorial law enforcement agencies.

<sup>2</sup> This policy provides Department components with internal direction. It is not intended to, does not, and may not be relied upon to create any substantive or procedural rights enforceable at law by any party in any civil or criminal matter.

searches during federal task force operations. Some state and local agencies, however, do not equip their officers with BWCs. To the extent state and local law enforcement agencies mandate BWCs for TFOs while engaged in federal task force operations, the Department will permit federally deputized TFOs from those agencies to use their BWCs under the following circumstances.

## II. USE OF BODY WORN CAMERAS DURING FEDERAL TASK FORCE OPERATIONS

Unless subject to specific exceptions below, TFOs employed by a law enforcement agency that mandates the use of BWCs on federal task forces may wear and activate their recording equipment for the purpose of recording their actions during task operations<sup>3</sup> only during: (1) a planned attempt to serve an arrest warrant or other planned arrest; or, (2) the execution of a search warrant.<sup>4</sup> TFOs are authorized to activate their BWCs upon approaching a subject or premises, and must deactivate their BWCs when the scene is secured as determined by the federal supervisor on the scene as designated by the sponsoring federal agency. For purposes of this policy, the term “secured” means that the scene is safe and under law enforcement control. In the event circumstances arise requiring additional law enforcement assistance to secure the scene, the TFO will end BWC recording when relieved from the scene by another law enforcement officer. TFOs are prohibited from recording: (1) undercover personnel; (2) confidential informants or confidential sources; (3) on-scene witness interviews prior to or after the operation; (4)

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<sup>3</sup> TFOs are authorized to wear and activate their recording equipment in accordance with this policy anywhere they are authorized to act as a police or peace officer under state, local, territorial or tribal law.

<sup>4</sup> For the execution of a search warrant, BWCs should not be used for searches of property lawfully in government custody or control, or a search to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records.

personnel using specialized or sensitive investigative techniques or equipment; or (5) on-scene actions by any non-law enforcement persons who are assisting law enforcement personnel prior to or after the operation. TFOs are prohibited from activating their BWC if the TFO is using specialized or sensitive investigative techniques, operating in a sensitive area, or working in an undercover or covert status on behalf of the federal task force or federal agency as determined by the federal agency sponsoring the task force. Subject to the discretion of the federal agency sponsoring the task force, TFOs generally shall not use their BWCs to record any activities related to investigations involving public corruption, medical facilities, national security, or other sensitive investigations. The Department's policy of permitting the limited use of BWCs on task forces does not apply to highly specialized or sensitive operations or groups as determined by the federal agency sponsoring the task force.

### III. STORAGE OF TASK FORCE OFFICER BODY WORN CAMERA RECORDINGS IN FEDERAL TASK FORCE OPERATIONS

The TFO activating a BWC during federal task force operations is responsible for downloading, or having his/her parent agency personnel download, the resulting TFO BWC recordings. Once the TFO BWC recording is downloaded, it shall be placed onto external media (e.g., DVD, hard drive, etc.), or another mutually agreeable delivery mechanism, and promptly provided to the federal task force. The TFO parent agency will provide to the sponsoring federal agency a recording that qualifies as a "duplicate" under Federal Rule of Evidence 1001(e).<sup>5</sup> The federal agency sponsoring the task force shall

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<sup>5</sup> Under Fed. R. Evid. 1001(e), "[a] 'duplicate' means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original."

maintain the TFO BWC recording from the TFO as appropriate in the federal agency's files.

#### IV. FEDERAL RECORDS

All TFO BWC recordings made during federal task force operations, including such recordings retained by the TFO's parent agency and/or in the possession of any third party engaged by the parent agency to store or process BWC recordings, shall be deemed federal records of the Department and the federal agency sponsoring the task force pursuant to the Federal Records Act. In all circumstances, TFO BWC recordings shall be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings, and as potential evidence in a federal investigation subject to applicable federal laws, rules, and policy concerning any disclosure or dissemination; and therefore deemed privileged absent appropriate redaction prior to disclosure or dissemination. Nothing in this policy shall be deemed to provide a right of public access to TFO BWC recordings. TFO BWC recordings are controlled by, and the property of, the Department and will be retained and managed by the federal agency sponsoring the task force. The federal agency sponsoring the task force is responsible for considering requests to release TFO BWC recordings. These records cannot be disseminated without the written permission of the Department, subject to the following exceptions:

##### A. Internal Dissemination

The TFO's parent agency is authorized to use TFO BWC recordings for internal investigations of its personnel consistent with the parent agency's policies and

procedures, but may not disseminate the BWC recording outside the parent agency or for public release without the written permission of the Department. The parent agency shall provide written notification to the sponsoring federal agency prior to any internal review.

#### B. Expedited Public Release

If TFO BWC recording(s) depict conduct committed solely by a TFO resulting in serious bodily injury or death of another, the TFO's parent agency shall notify the sponsoring federal agency<sup>6</sup> and the United States Attorney as early as possible if it desires to publicly release the TFO's BWC recording(s). The sponsoring federal agency 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 TFO's parent agency may immediately release the recording(s) with any agreed-upon redactions, giving as much advance notice as possible to the sponsoring federal agency and United States Attorney as to the time and manner of its release.

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<sup>6</sup> The notification may be to the Special Agent in Charge (SAC) of the federal agency sponsoring the task force or, in the case of United States Marshals Service-led task forces, the local United States Marshal and the Assistant Director (AD) / Investigative Operations Division (IOD) of the U.S. Marshals Service, and any discussions, negotiations, and concurrence may be made by the SAC or, in the case of the US Marshals Service, the local US Marshal and AD/IOD, after appropriate consultation within their agency.

## V. MEMORIALIZATION

Subject to the guidance set forth in this policy, the SAC of the sponsoring federal law enforcement agency or, in the case of United States Marshals Service-led task forces, the Assistant Director of the Investigative Operations Division, is responsible for memorializing any agreement with a state and local law enforcement agency on the use of BWCs by federally deputized TFOs during federal task force operations. Upon notification to the United States Attorney, the SAC or AD/IOD shall execute a Memorandum of Understanding (MOU), or addendum to a preexisting MOU, prior to use of BWCs by TFOs that sets forth the details for the use of BWCs by TFOs on the task force consistent with this policy. Prior to entering into any agreement, the TFO's parent agency shall provide to the federal agency sponsoring the task force the details regarding the BWC system and cameras, including the details of any system protections, to the satisfaction of the federal agency, and any state or local policies or laws applicable to the TFO's use of BWCs, including any retention policies. This MOU shall make clear that TFO BWC recordings, including such recordings residing in the state/local agency's BWC system or other copies retained by the agency and/or in the possession of any third party engaged by the agency to store or process BWC recordings, are deemed to be federal records, subject to federal retention and information access laws, regulations, policies, and procedures. The federal agency sponsoring the task force will ensure that all participating agencies are informed of which participating agencies, if any, mandate BWC use by their respective TFOs, and provide all participating agencies with this policy.