

## **POLICY FOR IRS-CI BODY-WORN CAMERA PROGRAM**

**NOTE: UNTIL SUCH TIME BODY WORN CAMERAS (BWCs) HAVE BEEN ISSUED ACROSS CI NATIONWIDE, THIS POLICY WILL ONLY APPLY TO FIELD OFFICES WHERE BWC EQUIPMENT AND TRAINING HAS BEEN PROVIDED.**

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### **1. Purpose**

This guidance establishes policy on the use of IRS-Criminal Investigation's (IRS-CI's) body-worn cameras (BWCs) by IRS-CI Special Agents (SA) and Task Force Officers (TFOs). For purposes of this policy, the term "BWC recordings," refers to audio and video recordings and associated metadata recorded on IRS-CI-owned BWCs while the SA is engaged in federal law enforcement operations. This interim policy only applies to SAs and TFOs who have been assigned IRS-CI BWCs.

### **2. Background**

In a memorandum dated June 7, 2021, the Department of Justice (DOJ) directed DOJ law enforcement components to develop BWC policies requiring agents to wear and activate BWC recording equipment for purposes of recording their actions during: (1) a pre-planned attempt to serve an arrest warrant or other pre-planned arrest, including the apprehension of fugitives sought on state and local warrants; or (2) the execution of a search or seizure warrant or order. See document embedded below.

On May 25, 2022, President Biden signed Executive Order 14074, Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety (Executive Order).

Section 13 of the Executive Order requires the heads of Federal Law Enforcement Agencies to ensure their respective agencies issued policies with requirements that are equivalent to, or exceed, the requirements of the BWC policy issued by the DOJ on June 7, 2021.

To comply with the above-mentioned EO, and consistent with the DOJ June 7, 2021, memorandum, IRS-CI issued an interim policy to establish guidance and procedures governing the use of BWCs by IRS-CI SAs and IRS-CI Task Force Officers (TFO) on August 23, 2022 and November 10, 2023.

The November 10, 2023 interim policy is superseded by this one.

This policy is not applicable to the use of recording devices used in undercover operations by undercover agents or the recording of witness and subject interviews not incident to pre-planned enforcement operations.

### **3. Policy Statement**

IRS-CI personnel must only use IRS-CI owned BWCs and collect, use, retain, and disseminate BWC recordings for authorized IRS-CI purposes in accordance with the requirements and restrictions in this policy.

When applying this policy during IRS-CI pre-planned attempts to execute arrest warrants, search or seizure warrants, IRS-CI SAs and TFOs must prioritize their own safety and the safety of the public over the use of BWCs. When conducting IRS-CI pre-planned arrests and searches, SAs and TFOs must abide by the IRM, as well as any applicable policies or procedures related to law enforcement officer (LEO) or public safety. If the use of BWCs under this policy conflicts with policies or procedures related to LEO or public safety, IRS-CI personnel must abide by the policies or procedures related to LEO or public safety instead of this policy.

### **4. Administration of the BWC Program**

The IRS-CI BWC Program will be overseen by the BWC Program Manager (BWC PM). The BWC PM is responsible for all aspects of administering and managing the BWC Program, including obtaining and distributing BWC equipment, developing and implementing training, creating standard operating procedures, and developing a system for tagging and tracking BWC recordings. As the BWC program administrator, the BWC PM will set the standards for BWC setting configurations. The BWC PM will review and update this policy annually, or as needed.

Each IRS-CI Field Office will have at least one BWC Coordinator to assist the BWC PM with the management and administration of the BWC Program. The BWC PM may delegate certain duties and responsibilities to the BWC Coordinators.

### **5. Body-Worn Cameras**

IRS-CI SAs are the only IRS-CI employees authorized to wear and use BWCs. (See below regarding TFOs).

Each IRS-CI SA will be issued a BWC and authorized upload device (AUD) to use on authorized BWC activities as described in section 7 of this policy. The BWC will be recorded on the SA's CIMIS

inventory, and the SA will be responsible for the safekeeping of the equipment. The BWC must be stored and secured as per IRS-CI's policy for agency-issued cellphones (see [IRM 10.8.26.1](#))<sup>1</sup>. Any lost or stolen BWCs must be reported as per the guidance for all IRS-CI issued equipment listed on an agent's CIMIS inventory. In addition, any lost or stolen BWCs must be immediately reported to the FO's BWC Coordinator and the BWC PM.

Only IRS-CI-issued BWCs will be used by IRS-CI SAs.

TFOs may be issued an IRS-CI BWC for use on authorized BWC activities as described in section 7 of this policy. TFOs are permitted to use their agency-issued BWC, consistent with this policy and while acting in the capacity of an IRS-CI TFO as described in Section 13.

SAs are prohibited from changing or attempting to change the online BWC setting configurations. BWC Coordinators are prohibited from changing or attempting to change the online BWC setting configurations without approval from the BWC PM. SAs must report any technical issues or malfunctions of the BWC to their immediate supervisor and the appropriate BWC Coordinator as soon as practical, but no later than twenty-four (24) hours after discovering the issue. BWC Coordinators will forward all reports of technical issues or malfunctions to the BWC PM.

## **6. Required Training**

Prior to the use of a BWC on authorized BWC activities as described in section 7 of this policy, each SA and TFO is required to successfully complete training on:

- a) the proper wearing and use of a BWC,
- b) the uploading and managing of BWC recordings,
- c) the requirements of this policy, and
- d) legal topics relevant to the use of a BWC.

The completed training will be documented and provided to the BWC PM. Only SAs who have successfully completed these training requirements may use a BWC on authorized BWC activities.

SAs are required to complete additional BWC training as developed by the BWC PM.

## **7. Authorized BWC Activities**

The following are authorized BWC activities:

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<sup>1</sup> While the BWC is an important part of your enforcement gear, it shall NOT be stored long term in your vehicle with your gear bag. It is not allowed to be stored in a vehicle overnight.

- a) For CI led enforcement operations BWCs are required to be worn and activated by all on-scene participants during pre-planned arrest, search and/or seizure operations that require a risk assessment<sup>2</sup>.
- b) For non-CI led enforcement operations, BWCs will be worn and activated when the lead agency requires its agents to wear BWCs. During these operations, IRS-CI agents shall follow the BWC policy of the lead agency regarding activation and deactivation. IRS-CI agents are not authorized to utilize other agencies' BWCs. In the event that another agency requires the use of its BWCs, IRS-CI agents will not participate in the aspects of the operation requiring them.
- c) BWCs and BWC recordings may be used for IRS-CI training programs and administrative purposes as approved by the BWC PM.
- d) BWCs may be used to record interviews incidental to the enforcement operation.

***The SAC has the discretion to authorize deviations from this section to accommodate operational objectives. Planned deviations shall be documented in the operational plan and discussed in the pre-operational briefing. Unplanned deviations will be documented and explained in the post operation summary form.***

## **8. Prohibited Recordings**

BWCs shall not be used to record:

- a) undercover (UC) or covert personnel of IRS-CI or any other agency, while working in a UC or covert status,
- b) confidential informants,
- c) in a sensitive or secure work area in an IRS-CI or other agency facility as designated by the SAC or equivalent,
- d) in any situation where individuals have a reasonable expectation of privacy, unless related to an enforcement activity,
- e) within healthcare facilities,
- f) any non-enforcement activities, such as actions and conversations of IRS-CI personnel when not actively engaged in an enforcement activity,
- g) privileged communications
- h) inside detention facilities or government facilities that otherwise prohibit the use of recording equipment,
- i) any other IRS-CI employee(s) unless specifically permitted under this policy,
- j) any personal use, and
- k) any other activity outside of the scope of this policy without prior approval of the BWC PM and the SAC.

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<sup>2</sup> Enforcement actions not requiring a risk assessment as listed in Internal Revenue Manual 9.4.9.3.2.2 (1) include those search and seizure warrants which are served on accounts of a Federally insured bank or financial institution, another Federal agency, or search warrants served via fax or mail.

## **9. Wearing of BWCs**

The BWC must be worn on your upper torso, forward facing with an unobstructed view.

## **10. Activation/Deactivation of BWCs**

BWCs will be activated on authorized BWC activities prior to approaching the planned enforcement operation. The Team Leader will determine when the BWCs will be activated, which will be documented in the operational plan. After the operational plan is approved by the SAC, the Team Leader will advise the SAs during the pre-operation briefing when to activate their BWC.

Examples of approaching the planned enforcement operation include:

- a) For Search/Seizure warrants - Prior to reaching the premises and before the SAs exit from their vehicles.
- b) For Arrest warrants - Prior to reaching the subject's location and before the SAs exit from their vehicles or prior to approaching the subject,

BWCs will be deactivated on authorized BWC activities after the conclusion of the planned enforcement operation. The Team Leader will determine when the BWCs will be deactivated, which will be documented in the operational plan. In the pre-operation briefing the Team Leader will discuss the plan for deactivating the BWCs.

Once activated, the BWCs must continuously record until:

- a) For Search/Seizure warrants, the Team Leader determines the location is secure and instructs the SAs to deactivate their BWCs. For purposes of this policy, the term "secure" means that the scene is under law enforcement control and/or is safe for agents and the public.
  - 1) SAs maintaining occupant control within a controlled premises will record with their BWC until they have been relieved by another SA, the occupants leave, or the operation is complete, and control of the premises has been relinquished by IRS-CI. The Team Leader may, in rare instances, deviate from this section of the policy. Any exceptions must be documented in the post-enforcement paperwork.
- b) For Arrest warrants, the Team Leader determines the location is secure and/or the subject is in custody and instructs the SAs to deactivate their BWCs.
  - 1) The Team Leader will require SAs controlling and/or transporting the arrestee to record with their BWCs until they have relinquished custody or arrived at a facility such as a detention facility, jail, or courthouse.

BWCs may be used to record interviews incidental to the enforcement operation.

If a SA is equipped with a BWC during a pre-planned arrest, search and/or seizure operation, and the SA identifies exigent circumstances that could lead to the use of force (including but not limited to unanticipated interactions with the public in the form of contentious or violent encounters), the SA shall activate their BWC provided it is safe to do so.

IRS-CI SAs and TFOs should make all reasonable efforts to wear and activate/deactivate BWCs according to this policy. Adherence to this policy should not adversely impact safety nor influence tactical decisions.

***The SAC has the discretion to authorize deviations from this section to accommodate operational objectives. Planned deviations shall be documented in the operational plan and discussed in the pre-operational briefing. Unplanned deviations will be documented and explained in the post operation summary form.***

In addition to the reporting procedures in section 5, SAs must report any failures to activate or deactivate the BWC as described in this section to their team leader and their supervisor at the conclusion of the BWC authorized activity.

In all instances when recording with a BWC, SAs will confirm that audio and video recordings are being made if asked by the subject or members of the public.

## **11. Uploading BWC Recordings**

### **a. Operations with No Use of Force**

Each SA shall upload their BWC recordings no later than two (2) business days following the conclusion of the authorized BWC activity. If unable to upload the BWC recording within this timeframe, the SA must contact the Team Leader and the SSA and let them know of the delay, the reason for the delay, and when the BWC recording will be uploaded. The SA shall then document the delay in a memorandum, which shall be provided to the Team Leader and SSA and forwarded to the BWC Coordinator.

### **b. Operations with a Use of Force**

In accordance with Internal Revenue Manual ([IRM](#)) 9.2.3, Use of Force Procedures, if there is use of force at the level of compliance techniques or higher during an authorized BWC activity, the SAC shall be notified immediately. Upon notification, the SAC shall designate a management official, or other designee, to promptly collect the BWCs of all SAs who were present. All BWC recordings shall be uploaded and the BWC Coordinator and PM notified within twenty-four (24) hours after the BWC recordings were made.

## **12. Documenting the Use of BWCs**

Upon the conclusion of an authorized BWC activity, the Team Leader will document in the post-enforcement operation summary form:

- a) The names of the team members participating in the enforcement operation and whether each was wearing a BWC during the enforcement operation.
- b) Identification of any BWCs which were not activated prior to the enforcement operation.
- c) Identification of any BWCs deactivated prematurely during the enforcement operation.
- d) Identification of any BWCs that malfunctioned, were inoperable, or the recording was interrupted or terminated during the enforcement operation.

- e) If any SA used force at the level of compliance techniques or higher per [IRM 9.2.3](#), Use of Force Procedures, and, if so, the name of the management official or designee who collected the BWCs and uploaded the BWC recordings.
- f) The names of any individuals who were interviewed and the SAs whose BWCs recorded those interviews.

The SAC shall forward a copy of the post-enforcement operation summary forms to the BWC Coordinator.

### **13. Task Force Officer BWCs**

IRS-CI TFOs will be required to use their parent agency-issued BWC, if so equipped, while assisting with authorized BWC activities and acting in their IRS-CI TFO capacity. At SAC discretion, IRS-CI may provide a BWC for the TFO's use, subject to the approval of the BWC PM and TFO parent agency, as documented in an MOU. TFOs not equipped with a BWC shall not be permitted to participate on entry teams and/or outside cover for planned enforcement operations and must not be on the premises of an enforcement operation until the site is cleared and secured. In all cases, IRS-CI policies and procedures related to BWC recordings and disclosure apply to IRS-CI TFOs, including the training described in this policy.

IRS-CI 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 IRS-CI pursuant to the Federal Records Act. TFO BWC recordings captured on IRS-CI owned BWCs are controlled by, and the property of, IRS-CI and will be retained and managed by IRS-CI in accordance with applicable records retention schedule(s). These records may be subject to the provisions of [26 U.S.C. 6103](#) and cannot be disclosed without the written authorization of the appropriate IRS official with authority to disclose the BWC recordings.

- a) Internal Disclosure: The TFO's parent agency is generally authorized to use TFO BWC recordings consistent with the parent agency's policies and procedures but may not disclose it contrary to the terms of the relevant MOU(s).
- b) Expedited Public Release: If TFO BWC recordings depict conduct by a TFO operating in their role as an IRS-CI TFO resulting in serious bodily injury or death, the TFO's BWC recordings are subject to the IRS-CI expedited public release conditions contained in Section 18(e) of this policy.

Requests by TFO's parent agency to review BWC recordings for any other reason not outlined above will be made to the SAC and handled on a case-by-case basis in consultation with the BWC PM and the Office of Division Counsel/Associate Chief Counsel for Criminal Tax.

### **14. Records Retention**

BWC data collected must be retained, maintained, and safeguarded in accordance with applicable federal laws, executive orders, directives, IRS policies, procedures, regulations, rules, standards, and other guidance.



IRS-CI BWC retention and disclosure policies will comply with the Federal Records Act, the Freedom of Information Act, the Privacy Act, and [IRM 1.15.2](#), Records and Information Management, Types of Records and Their Life Cycles. IRS-CI, in coordination with appropriate agency records management officials, will ensure appropriate records control schedules are in place for records generated through the use of BWC.

### **15. Authorized Review of BWC Recordings by IRS-CI Employees**

The BWC PM and designees shall have access to, and are authorized to review, all BWC recordings.

IRS-CI management officials and their designees shall have access to, and are authorized to review, IRS-CI BWC recordings for SAs and TFOs within their chain of command.

In instances where there was no reportable use of force, SAs and TFOs shall have access to, and are authorized to review, all BWC recordings made from their assigned BWC and all BWC recordings associated with their assigned investigations.

In instances where there was a reportable use of force ([IRM 9.2.3](#) Use of Force Procedures), or allegation of misconduct by the SA or TFO, the SA, TFO, and/or their duly authorized legal representative may review their BWC recording prior to submitting to an interview or providing any written statements or reports about the alleged incident, consistent with [26 U.S.C. 6103\(h\)\(4\)\(A\)](#).

### **16. Administrative Reviews of BWC Recordings**

The BWC PM will develop and implement a system of reviews of the BWC recordings to administer the BWC Program and to ensure the use and activities on the BWC recordings meet IRS-CI policy requirements.

### **17. Privacy Act and Disclosure, Title 26 U.S.C. 6103**

All BWC recordings are subject to the provisions of the Privacy Act, [5 U.S.C. 552a](#), which 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. Prior to collecting any records pursuant to this policy, IRS will ensure compliance with Privacy Act requirements regarding the collection of information about individuals.

BWC recordings generated pursuant to a tax or tax-related investigation constitute return information and are subject to the confidentiality provisions of [26 U.S.C. 6103](#).

### **18. Disclosure of BWC Recordings**

Prior to disclosure of any BWC recordings and/or data, IRS-CI personnel must follow procedures to properly redact recordings as normally done with other investigative files turned over to the DOJ (including U.S. Attorney's Office(s)) in the investigative or discovery phases to protect against the

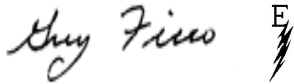


unauthorized disclosure of tax information, PII, or other sensitive information including the identities of UCAs. BWC recordings and/or data shall not be disclosed outside of IRS, except for the following:

- a) To DOJ, subject to the provisions of [26 U.S.C. 6103](#):
  - i. for investigative and/or prosecutorial purposes with respect to tax administration proceedings (26 U.S.C. 6103(h)), and/or
  - ii. for investigative and prosecutorial purposes with respect to a non-tax criminal proceeding (26 U.S.C. 6103(i)).
- b) To other federal agencies, pursuant to disclosure agreements and/or MOUs, subject to the provisions of [26 U.S.C. 6103](#) and/or the Privacy Act. Any disclosure shall be approved by the BWC PM in accordance with applicable law and any approved MOUs between IRS-CI and other agencies. The BWC PM will be made aware of all such disclosure agreements/MOUs. Disclosure agreements/MOUs require the authorization of the appropriate IRS official with authority to disclose the return information and other material contained in BWC recordings.
- c) To other federal agencies for the administration of federal criminal laws not related to tax administration. IRS is authorized subject to the provisions of [26 U.S.C. 6103\(i\)](#), to disclose/refer pertinent information to appropriate federal, state, and local law enforcement agencies related to violations of criminal law, upon a written request by the head of the agency. Requests must identify the subject individual(s) and the information sought. Disclosures in response to such requests must be authorized by the appropriate IRS official with authority to disclose the return information and other material contained in BWC recordings.
- d) Pursuant to Freedom of Information Act (FOIA), [5 U.S.C. 552](#) requests. Recordings from BWCs may be subject to release pursuant to the FOIA. Any FOIA request for BWC recordings received by an IRS-CI employee must be promptly forwarded to the Disclosure Office. FOIA requests pertaining to BWC recordings received from the Disclosure Office will be processed by the BWC Coordinator, with coordination from the BWC PM, Office of Division Counsel/Associate Chief Counsel for Criminal Tax and the CI FOIA coordinator.
- e) Expedited public release involving serious bodily injury or death. In all instances involving BWC recordings that depict an incident involving serious bodily injury or death, the SAC or their designee will immediately notify the appropriate Director of Field Operations, the CI Director of Communications, the Director of Global Operations, Policy and Support, the Office of the Chief /Deputy Chief CI, the BWC PM, and the Office of Division Counsel/Associate Chief Counsel for Criminal Tax. The aforementioned personnel must conduct an expedited review to determine if the BWC recording(s) was/were generated pursuant to a tax or tax-related investigation.
  - i. BWC recordings generated pursuant to a tax or tax-related investigation constitute return information and are subject to the confidentiality provisions of [26 U.S.C. 6103](#). Any disclosures to the public must be authorized by the appropriate IRS official with authority to disclose the return information and other material contained in BWC recordings.
  - ii. BWC recordings generated pursuant to an investigation that is not a tax or tax-related investigation are not return information and are not subject to the provisions of [26 U.S.C. 6103](#). BWC recordings that are not tax return information may be released to the public, subject to

the Privacy Act of 1974, [5 U.S.C. 552a](#), and other applicable laws and with the approval of the appropriate IRS official with authority to disclose such information and other material contained in such recordings.

**19. Approval**

Handwritten signature of Guy A. Ficco in cursive script, followed by a stylized flourish.

Guy A. Ficco  
Chief, Criminal Investigation

Date: 8/30/2024