

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 19010.1: Interim Policy Authorizing the Body Worn Camera (BWC) Pilot

Issue Date: October 6, 2021

Superseded: N/A

1. **Purpose/Background.** This Directive authorizes the creation of a U.S. Immigration and Customs Enforcement (ICE) Body Worn Camera (BWC) Pilot. Additionally, this Directive establishes policy and procedures for ICE personnel participating in the BWC Pilot implemented in response to Congressional direction. This Directive applies only to ICE personnel authorized to participate, whether directly or indirectly, in the BWC Pilot.

ICE recognizes that many law enforcement agencies are expanding their use of BWCs in their daily operations. The use of BWCs in appropriate circumstances may be beneficial to the execution of many of ICE's operations. The use of BWCs may also promote public trust; enhance service to the community by accurately documenting events, actions, conditions, and statements made by encountered individuals; and increase officer and public safety, accountability, and transparency. The purpose of the BWC Pilot is to examine the operational feasibility of enterprise-wide BWC use by identifying the costs and benefits, including workload impacts, time commitment, and logistical challenges associated with implementation.

2. **Policy.** It is ICE policy to pilot BWC according to the processes, procedures, requirements, and limitations set forth in this Directive to determine the overall operational feasibility of BWC in ICE enforcement activities.
 - 2.1 **Authorization.** This Directive authorizes and requires certain designated ICE personnel to use BWCs in the situations, and subject to the guidelines, set forth herein during the BWC Pilot. The ICE personnel participating in the BWC Pilot will use BWCs to collect audio and video recordings of interactions between ICE personnel and the public during Pilot Enforcement Activities and under the conditions and according to procedures stipulated in this Directive. Only designated ICE officers and agents are authorized to use BWCs during the BWC Pilot.
 - 2.2 **Scope.** This Directive applies only to ICE personnel authorized to participate in the BWC Pilot, whether they are wearing a BWC or administratively supporting the BWC Pilot.
 - 2.3 **Duration and Limitations.** The BWC Pilot will continue at the BWC Pilot Offices for a period of six months.¹ The pilot period will allow ICE Directorates and Program Offices sufficient time to collect and analyze data, and to assess the overall operational feasibility of BWCs in ICE enforcement activities. BWCs will not be used during undercover

¹ Although this policy authorizes Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI) to conduct a six-month BWC Pilot, the six-month period may run at different times for each Directorate.

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operations or in situations in which it would pose a risk to officer or public safety. BWC recordings will not be used for any facial recognition activities.

3. **Definitions.** The following definitions apply for purposes of this Directive only.
- 3.1. **Headquarters Responsible Officials (HRO).** Executive Associate Directors (EADs) for ERO, HSI, and Management and Administration (M&A); the Associate Director for the Office of Professional Responsibility (OPR); and the Assistant Directors (ADs), or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff, including the AD for the Office of Firearms and Tactical Programs (OFTP), AD for the Office of Congressional Relations (OCR), the AD for the Office of Regulatory Affairs and Policy (ORAP), the AD for the Office of Diversity and Civil Rights (ODCR), and the AD for the Office of Public Affairs (OPA).
- 3.2. **Field Responsible Official (FRO).** The highest-ranking official in each of the ICE field locations selected to participate in the BWC Pilot, including Special Agents in Charge, Field Office Directors, and any other officials in those locations who have been designated in writing by the Director.
- 3.3. **Body Worn Camera (BWC).** Any audio and/or video recording equipment combined into a single unit and typically worn on the authorized ICE personnel's exterior clothing, body armor carriers, equipment, or jacket identifying them as ICE employees or federal officers or agents during the course of their official duties.
- 3.4. **BWC Recording.** Any audio and/or video data recorded by ICE personnel using a BWC, during the course of their official duties, during the BWC Pilot. BWC recordings do not include audio and/or video data collected by BWC in a training environment.
- 3.5. **BWC Pilot Office.** One of the six geographic ICE locations selected to participate in the BWC Pilot. The pilot offices are three ERO offices and three HSI offices in the following locations:

(b)(7)(E)



- 3.6. **BWC Coordinator.** An individual selected by the FRO at each BWC Pilot Office to be primarily responsible for administering and monitoring the BWC Pilot with ICE

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personnel authorized to participate in the BWC Pilot at that location.

- 3.7. ICE Personnel.** All ICE employees and contractors authorized to participate, either directly or indirectly, in the BWC Pilot.
- 3.8. Pilot Enforcement Activities.** All aspects of ICE enforcement activities planned and orchestrated in advance, conducted by ICE personnel in the BWC Pilot Offices in furtherance of the ICE mission, excluding covert or undercover activities. Such activities include:
- 1) At large arrests, including searches incident to such arrests;
 - 2) Brief investigatory detentions, including frisks conducted during brief investigatory detentions;
 - 3) Executing, and attempting to execute, criminal and administrative arrest warrants;
 - 4) Execution of search warrants, including during the time securing the location to be searched as well as the ultimate search of the location; and
 - 5) Questioning of any individual encountered during the above-listed activities in the field.

For purposes of the BWC Pilot, a Pilot Enforcement Activity only terminates with respect to a particular officer or agent when they leave the scene of the activity.²

4. Responsibilities.

4.1. The HROs are responsible for:

- 1) Ensuring overall compliance with this Directive within their respective Directorate or Program Office;
- 2) Monitoring within their respective Directorate or Program Office spending associated with the BWC Pilot, including establishing the requisite project codes, running status of funds, and validating spending reports with programs;
- 3) Ensuring that any personnel within their respective Directorate or Program Office who is supporting the BWC Pilot or reviewing BWC recordings have the appropriate training;
- 4) Developing and issuing any necessary implementation guidance specific to their Directorate or Program Office, in coordination with the ORAP; and
- 5) Ensuring their Directorates and Program Offices review and analyze the results of the BWC Pilot to coordinate and collaborate, as required, with other

² For example, a BWC recording by an officer or agent executing an arrest warrant should not be terminated when the target is arrested; rather, the BWC should continue recording until the officer or agent leaves the scene at which the warrant was executed.

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Directorates and Program Offices to inform the ORAP in the preparation of a final BWC Pilot report.

4.2. The **FROs** at the BWC Pilot Offices are responsible for:

- 1) Implementing the provisions of this Directive within their respective BWC Pilot Office;
- 2) Identifying which enforcement activities conducted in a BWC Pilot Office will fall within the scope of “Pilot Enforcement Activities” for purposes of the BWC Pilot;
- 3) Tracking and reporting to HROs on spending associated with the BWC Pilot, as appropriate;
- 4) Overseeing compliance with this Directive and ensuring ICE personnel have the appropriate training, equipment, and direction to successfully complete the BWC Pilot;
- 5) Identifying and appointing a BWC Coordinator within their respective BWC Pilot Office;
- 6) Reporting to HROs, through the appropriate supervisory channels, all potential privacy or civil liberty violations reported by the BWC Coordinator within their office as soon as practicable;
- 7) Ensuring allegations of misconduct, including but not limited to potential civil liberty violations, are reported to OPR as soon as practicable; and
- 8) Ensuring that the data and performance measures required to assess the operational feasibility of the BWC Pilot are collected in their respective BWC Pilot Office.

4.3. The **ORAP** is responsible for:

- 1) Coordinating, as needed, with ICE Directorates and Program Offices, as well as any DHS Components (e.g., the Offices of Civil Rights and Civil Liberties (CRCL), Privacy, Policy, etc.) regarding the BWC Pilot;
- 2) Monitoring the BWC Pilot implementation and progress, through the appropriate Directorates and Program Offices, and addressing any policy-related issues impacting the BWC Pilot; and
- 3) Drafting a final report on the outcomes of the BWC Pilot, with input from ICE Directorate and Program Offices, including best practices, volume and aggregate data, demographic information, and other relevant information to be shared with ICE and DHS leadership to inform future policymaking and planning.

4.4. The **OFTP** is responsible for:

- 1) Testing and evaluating—prior to the initiation of the BWC Pilot—the BWCs that are

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procured for the BWC Pilot;

- 2) Providing training—prior to the initiation of the BWC Pilot—to BWC Coordinators and/or ICE personnel in the BWC Pilot Offices including creation, development, and circulation of any necessary training materials;
- 3) Providing oversight of operational aspects of the BWC Pilot, including providing guidance to the BWC Pilot Offices and BWC Coordinators on the program requirements and operations;
- 4) Through its Program Management Office (PMO), assisting BWC Pilot Offices with training, technical and material support and coordinating the BWC efforts of components across the agency throughout the duration of the BWC Pilot;
- 5) Establishing and receiving regular communications from each of the BWC Coordinators regarding the overall progress (e.g., issues, challenges, concerns, delays, malfunctions, etc.) of the BWC Pilot and, in turn, reporting the same information to appropriate HROs and HQ leadership; and
- 6) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.5. The Office of Information Governance and Privacy (OIGP) is responsible for:

- 1) Ensuring compliance with all privacy-related documentation required pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, and the E-Government Act of 2002, for the BWC Pilot;
- 2) Drafting, circulating, and publishing a Privacy Threshold Analysis and Privacy Impact Assessment, in addition to any other privacy-related documents, required for the BWC Pilot;
- 3) Assisting, and providing oversight and guidance, with respect to the development of standard operating procedures, Rules of Behavior, training requirements, or other governance documents required for the BWC Pilot;
- 4) Creating and publishing notices to the public regarding information collections that impact Personally Identifiable Information (PII), minimizing data collection, identifying authorized disclosures or sharing of information (including Freedom of Information Act requests), and managing information releases related to the BWC Pilot;
- 5) Providing any appropriate guidance involving the protection of individual privacy, and civil liberties, and ethical use of collected information through the BWC Pilot; and
- 6) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

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4.6. The ODCR is responsible for:

- 1) Providing any necessary guidance to the BWC Pilot to safeguard the civil rights and civil liberties of the individuals encountered;
- 2) Monitoring the progress of the BWC Pilot to identify, address, or resolve any civil rights or civil liberties concerns during the BWC Pilot; and
- 3) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.7. The Office of the Chief Financial Officer (OCFO) is responsible for:

- 1) Ensuring—prior to the initiation of the BWC Pilot—that BWC Pilot Offices have the funding necessary for equipment, hardware, software, and training to successfully implement the BWC Pilot;
- 2) Supporting—prior to the initiation of the BWC Pilot—the procurement of required BWC units; and
- 3) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.8. The Office of Human Capital (OHC) is responsible for:

- 1) Conducting any required pre-BWC Pilot bargaining with any affected employee unions prior to the initiation of the BWC Pilot;
- 2) Engaging in and advising on the overall labor relations process with respect to the BWC Pilot, in order to successfully initiate the pilot at the BWC Pilot Offices;
- 3) Partnering with the appropriate Directorate and Program Offices, including but not limited to ODCR and the Office of the Principal Legal Advisor, to create, develop, and finalize the necessary training materials related to the BWC Pilot; and
- 4) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.9. The Office of Acquisition Management (OAQ) is responsible for:

- 1) Procuring any equipment, hardware, and software required to successfully initiate and conduct the BWC Pilot, including but not limited to the BWCs and any ancillary equipment; and
- 2) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.10. The Office of the Chief Information Officer (OCIO) is responsible for:

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- 1) Ensuring—prior to the initiation of the BWC Pilot—the BWC Pilot Offices have the appropriate IT hardware and software in order to successfully implement the BWC Pilot;
- 2) Providing oversight and guidance with respect to records/data retention and disposition of BWC recordings;
- 3) Supporting, evaluating, and upgrading—prior to the initiation of the BWC Pilot—any IT infrastructure improvements at the BWC Pilot Offices, as necessary, to successfully implement the BWC Pilot;
- 4) Monitoring the progress of the BWC Pilot with respect to IT needs and supporting any necessary equipment, hardware, or software needs that arise during the BWC Pilot; and
- 5) Coordinating at the conclusion of the BWC Pilot, as required, with ORAP on drafting a final report on the outcomes of the BWC Pilot.

4.11. The **BWC Coordinator** at each BWC Pilot Office is responsible for:

- 1) Managing the BWC Pilot and any required BWC training at their respective BWC Pilot Office;
- 2) Overseeing the receipt, issuance, and periodic inventory of BWC equipment;
- 3) Coordinating the scheduling of BWC related training for ICE personnel participating in the BWC Pilot;
- 4) Verifying that ICE personnel store BWC recordings by the end of each shift and that all recorded data is correctly categorized and labeled;
- 5) Ensuring preservation of all data related to the BWC Pilot from their BWC Pilot Office during the duration of the BWC Pilot, including but not limited to information related to:
 - a) BWC recordings;³
 - b) Equipment malfunctions;
 - c) Technology issues;
 - d) Time used to prepare BWC for Pilot Enforcement Activities; and

³ All BWC recordings will be preserved during the pendency of the BWC Pilot in order to ensure ICE has adequate data to inform the outcome of the BWC Pilot. After the conclusion of the BWC Pilot and the preparation of the final report, BWC recordings will be retained in compliance with the applicable National Archives and Records Administration (NARA) requirements and any litigation holds, if applicable.

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- e) Any unauthorized access to BWC recordings.
- 6) Maintaining sufficient quantities of supplies to support the BWC Pilot;
- 7) Tracking necessary data and performance measures from their particular BWC Pilot Office in order to evaluate the BWC Pilot;
- 8) Accepting, logging, tracking, and reporting to the FROs all reported allegations of privacy violations in the BWC Pilot as soon as practicable;
- 9) Ensuring allegations of employee misconduct, including but not limited to alleged civil liberty violations, are reported to OPR as soon as practicable;⁴
- 10) Cooperating with OPR investigations, including providing any relevant BWC recordings, if requested;
- 11) Immediately placing an additional "Litigation Hold" label on stored recordings when informed of litigation concerning the recorded event;
- 12) Ensuring that BWC recordings collected at their BWC Pilot Office are only accessed by authorized ICE personnel; and
- 13) Maintaining regular communication with the OFTP PMO and reporting issues to the PMO, to ensure the appropriate HROs and HQ leadership retain visibility on the BWC Pilot.

4.12. ICE Personnel are responsible for:

- 1) Complying with the requirements of this Directive, as well as all other applicable laws, regulations, policies, and procedures, during the BWC Pilot;
- 2) Wearing BWCs and capturing BWC recordings only during Pilot Enforcement Activities authorized by this Directive and any implementing guidance or operating procedures;
- 3) Ensuring that BWCs are working properly and have an adequate power supply and memory prior to participating in any Pilot Enforcement Activities;
- 4) Reporting all problems or malfunctions with BWCs to the BWC Coordinator as soon as practicable;
- 5) Reporting all potential privacy violations, or any violations of this Directive, to their supervisor and the BWC Coordinator as soon as practicable;
- 6) Reporting misconduct allegations to their supervisor, the BWC Coordinator, and

⁴ See generally ICE Policy 17001.1 *Functions of the Office of Professional Responsibility* (Feb. 3, 2005).

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OPR as soon as practicable;⁵

- 7) Cooperating with OPR investigations, including providing any relevant BWC recordings, if requested;
- 8) Preserving all BWC recordings to ensure the integrity of the Pilot Enforcement Activity, as well as to inform the outcome of the BWC Pilot;
- 9) Ensuring that, when activated, BWC recordings include the:
 - a) Name of the ICE personnel wearing the BWC;
 - b) Particular BWC Pilot Office where the ICE personnel is stationed;
 - c) Date and time of each Pilot Enforcement Activity;
 - d) Either an audible or visual method of identifying individuals encountered during Pilot Enforcement Activities (e.g., name, date of birth, A-number, etc.), if operationally feasible;
 - e) Any notice to inform individuals their encounter is being recorded as part of the BWC Pilot; and
 - f) Any other relevant information to inform ICE's ability to correlate the BWC recording with a particular overt, planned enforcement activity in order to better evaluate the results of the BWC Pilot.
- 10) Accessing BWC recordings only when authorized by section 5.6 of this Directive;
- 11) Storing BWC recordings appropriately and ensuring that all recorded data is correctly categorized and labeled before the end of each shift;
- 12) Memorializing in any official reports related to the associated planned and overt law enforcement activity whether a BWC recording was collected or produced;
- 13) Ensuring that no BWC recordings are used in any facial recognition system or facial recognition queries and immediately reporting any such unauthorized use to the BWC Coordinator; and
- 14) Completing and maintaining all training requirements (e.g., BWC equipment, privacy, etc.) necessary for participation in the BWC Pilot.

5. Procedures and Requirements.

⁵ This responsibility is in addition to the existing responsibility of ICE employees to immediately report serious allegations of misconduct. *See generally*, ICE Policy 17001.1 *Functions of the Office of Professional Responsibility* (Feb 3, 2005); and Section 4.4 of the *ICE Employee Code of Conduct* (Aug. 7, 2012).

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- 5.1. Safety.** As outlined in existing policies and procedures, ICE personnel must continue to follow all current safety policies and procedures when conducting any Pilot Enforcement Activities during the BWC Pilot. ICE officer and public safety must always be the primary consideration, not the ability to collect BWC recordings. ICE personnel participating in the BWC Pilot should not place themselves or others in unnecessary or dangerous situations solely for the purpose of collecting BWC recordings.
- 5.2. General.** On-duty ICE personnel assigned to the BWC Pilot Offices will use only ICE approved BWCs and such use will only be for official law enforcement purposes as outlined in this Directive. There is no limited personal use exception for ICE-owned BWC equipment, hardware, or software. The personal use of ICE BWCs is strictly prohibited.

ICE personnel are prohibited from tampering, dismantling, or attempting to repair BWCs. BWC recordings will only be accessed, downloaded, reviewed, transferred, or disclosed by authorized personnel. ICE personnel are strictly prohibited from deleting, editing, or modifying BWC recordings outside what is expressly permitted by this Directive. The existence of BWC recordings does not relieve ICE personnel from preparing written reports or field reports or from carrying out any other responsibilities required by applicable law, policy, and procedures.

In the case of ICE personnel from BWC Pilot Offices assigned to a task force composed of individuals from more than one law enforcement agency, the lead agency overseeing the task force shall determine, in writing, whether and in what circumstances authorized ICE personnel assigned to the task force will use any BWCs.

- 5.3. Recording.** ICE personnel must record Pilot Enforcement Activities at the start of the activity or, if not practicable, as soon as safely possible thereafter. Once a BWC is activated, ICE personnel should only deactivate the BWC once their participation or involvement in the Pilot Enforcement Activity has concluded. If ICE personnel fail to activate their BWC, they must provide a statement detailing the reason that they failed to activate the BWC. ICE personnel activating BWC for a Pilot Enforcement Activity are required to document the existence of any BWC recording in accordance with any operating procedures. ICE personnel must provide a statement detailing the reason for any interruption in BWC recordings (e.g., BWC deactivated, malfunction, etc.) during Pilot Enforcement Activities. ICE personnel must notify their supervisor and the BWC Coordinator if they become aware of any unintentional BWC recordings, including Prohibited Recordings (see section 5.4 below).

ICE personnel must advise individuals that they are being recorded as soon as operationally feasible.

- 5.4. Prohibited Recordings.** ICE personnel are prohibited from intentionally making BWC recordings for the purpose of recording any of the following activities and/or locations:
- 1) Conducting or supporting a personnel investigation or disciplinary action;
 - 2) Assessing ICE employees, except for use in the training environment as part of the BWC Pilot training student/instructor feedback process;

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- 3) Any non-enforcement activities, such as actions and conversations of coworkers when not actively engaged in a Pilot Enforcement Activity;
- 4) Privileged communications;
- 5) In places or areas where cameras generally are not allowed or permissible, such as locker rooms, dressing rooms, medical facilities, or restrooms, unless related to a Pilot Enforcement Activity;
- 6) Inside detention facilities or government facilities that prohibit the use of recording equipment, unless related to a Pilot Enforcement Activity;
- 7) Encounters with undercover officers, confidential informants, and cooperating defendants; and
- 8) Capturing BWC recordings in a manner that would unnecessarily infringe on activity protected by the First Amendment.

- 5.5. BWC Recording Retention and Storage.** All recorded data collected or captured using BWCs, whether it qualifies as evidence or not, will be stored and preserved during the BWC Pilot. After the issuance of the BWC Pilot final report, any such recorded data are considered official ICE records, and as such, must be maintained in accordance with an approved NARA records schedule and any applicable litigation holds.

BWC-recorded data must only be stored on a designated ICE-approved system or media. BWC-recorded data must not be downloaded or recorded for personal use or posted onto a personally-owned device or website. ICE personnel and BWC Coordinators must take reasonable steps to determine whether a BWC recording has investigative or evidentiary value to mark the footage appropriately for storage and tracking purposes for future litigation, investigation, and/or Freedom of Information Act requests. The evidentiary value of particular BWC recordings cannot always be immediately determined (e.g., information which seems insignificant at the time of recording, may subsequently play an evidentiary role in an investigation).

Any ICE BWC software or storage mechanism must have appropriate safeguards and audit trails in place to restrict access and viewing of recorded data to those with an official need-to-know as described in section 5.6 below. Such safeguards will include: logging ICE personnel access to a recording (including date, time, and location of access), requiring ICE personnel to log the purpose of accessing or viewing recorded data, and prohibiting the deletion, editing, or modification of any recording unless expressly permitted by this Directive.

- 5.6. BWC Viewing.** ICE will permit authorized personnel to review his or her own BWC recordings prior to when they are required to give a formal statement about a use of force incident or when they are the subject of an allegation of misconduct or personnel complaint.

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- 1) **BWC Recordings Captured by the ICE Officer.** Authorized ICE personnel participating in the BWC Pilot are generally permitted to review their own BWC recordings when submitting official reports. Authorized ICE personnel may review their own BWC recordings in the following circumstances:

- a) To complete authorized actions in an investigation, including preparation of official reports or A-file materials;
- b) Prior to courtroom testimony, courtroom presentation, or the potential thereof; and
- c) To prepare for administrative investigations and/or interviews.

Notwithstanding the foregoing, ICE personnel participating in the BWC Pilot are not entitled to copies of OPR administrative investigative materials, including OPR's copies of any BWC recordings.

In all instances where authorized ICE personnel participating in the BWC Pilot reviewed their own BWC recordings prior to completing a report, the report must accurately reflect that fact.

- 2) **BWC Recordings Not Captured by the ICE Officer.** Authorized ICE personnel participating in the BWC Pilot may review another ICE officer's BWC recording, including after the beginning of the BWC Pilot: 1) for training purposes, or 2) if the authorized ICE personnel has an official need-to-know. Additional use for training is addressed in Section 5.7 of this Directive.

Authorized ICE personnel participating in the BWC Pilot may not review another ICE personnel's BWC recording if the recording has been identified by ICE personnel as containing evidence of misconduct or an allegation of misconduct.

- 3) **Supervisors.** Supervisors and FROs may review BWC recordings when there is a mission need.
- 4) **ICE and DHS Headquarters.** HROs, including their appropriate ICE HQ staff, as well as other ICE HQ personnel with an official need-to-know, are permitted to review BWC recordings to assess, evaluate, or address any aspect of the BWC Pilot or officer action, including but not limited to technological, policy, legal, operational, financial, civil liberties, or any other issues related to the pilot or the content of the BWC recordings collected during the pilot. In certain circumstances, ICE may share BWC recordings with DHS HQ personnel (e.g., CRCL, Privacy, Office of General Counsel, etc.) where appropriate.

- 5.7. **BWC Training.** HROs and FROs will ensure that their authorized personnel, including ICE personnel participating in the BWC Pilot as well as any necessary support staff, are trained on BWCs, and have completed all applicable refresher training, prior to their authorization to use BWCs during the BWC Pilot to record or access BWC-recorded data. The appropriate training must include: BWC operation and care, appropriate handling of

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BWC recordings, privacy procedures, appropriate and permissible use of BWC recordings, and any other additional training HROs or FROs deem necessary to the effective and successful completion of the BWC Pilot.

BWC recordings used in a training environment will only be utilized as a part of the BWC Pilot training student/instructor feedback process. Only authorized ICE instructors will utilize the recorded data for feedback purposes. Any BWC recordings created in the training environment will not be placed into official training records. Any BWC recordings created in the field may only be used for training purposes after all PII is removed.

- 5.8. Release.** BWC recorders are subject to all applicable laws, regulations, collective bargaining agreements, and DHS and ICE Directives, including but not limited to the Freedom of Information Act, as amended, 5 U.S.C. § 552, and the Privacy Act of 1974, as amended, 5 U.S.C. § 552a.

Any release of BWC recordings external to DHS must be coordinated with OIGP. Depending on the request (e.g., individual, litigation, congressional, etc.), certain releases must be coordinated with HROs, the Office of the Principal Legal Advisor, ORAP, OCR, OPA, and the FRO in the impacted operational office(s). As appropriate, DHS HQ offices including, but not limited to DHS Office of the General Counsel, CRCL, Privacy (for releases of recordings to members of the media), and DHS OPA may be notified prior to any external release of BWC recordings.


Prior to any external release of BWC recordings, the releasing office must also complete DHS Form 191, Privacy Act Disclosure Record, and submit a copy to OIGP. Release of a BWC recording to a DHS Component or office must be consistent with DHS policy and the requesting DHS Component's or office's need to know.

- 6. Recordkeeping.** All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with a General Records Schedule (GRS) or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency until an approved records schedule is in place. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification. Further, all video and audio produced in accordance with the BWC pilot must be maintained in accordance with a NARA-approved agency-specific records control schedule.
- 7. Authorities/References.**
- 7.1.** H.R. Rep. No. 116-458, tit. II, at 32 (2020) ("The Committee continues to believe that the use of body-worn cameras would be beneficial for the execution of many ICE operations. To that end, in consultation with CRCL, ICE is directed to design a pilot program for the implementation of body-worn cameras. Not later than 90 days after the date of enactment of this Act, ICE and CRCL shall provide a joint briefing to the Committee that details the parameters of the forthcoming pilot; the metrics for success; a cost and workload analysis; activities and civil liberties concerns that may present challenges; how recorded footage

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would interface with Freedom of Information Act requirements; specific activities/operations where the use of body-worn cameras could compromise undercover criminal investigations; and activities where the use of body-worn cameras would be of particular benefit to the safety and well being of officers, detainees, and the public.”);

- 7.2. Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. (Aliens and Nationality);
- 7.3. 8 U.S.C. § 1357 (Powers of immigration officers);
- 7.4. 19 U.S.C. § 1589a (Enforcement authority of customs officers);
- 7.5. Privacy Act of 1974, 5 U.S.C. § 552(a);
- 7.6. Freedom of Information Act, 5 U.S.C. § 552;
- 7.7. Federal Rules of Civil Procedure, 37(e) (Failure to Preserve Electronically Stored Information);
- 7.8. Federal Rules of Evidence, Rule 401 (Relevance);
- 7.9. ICE Policy 17001.1 *Functions of the Office of Professional Responsibility* (Feb 3, 2005);
- 7.10. Section 4.4 of the *ICE Employee Code of Conduct* (Aug. 7, 2012).
- 8. **Attachments.** None.
- 9. **No Private Right Statement.** This Directive provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.


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