



# Audit of the Department of Justice Policy on Body Worn Cameras

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**JUNE 2021**

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# EXECUTIVE SUMMARY

## Audit of the Department of Justice Policy on Body Worn Cameras

### Objectives

Our objectives were to: (1) review and assess the current Department of Justice (Department or DOJ) body worn camera (BWC) policy for DOJ law enforcement officers (LEO), (2) evaluate the extent to which BWCs were utilized during the Department's task force officer (TFO) pilot program, and (3) assess any plans to expand the use of BWCs among DOJ LEOs and federally deputized task force participants. Our audit included the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the United States Marshals Service (USMS), referred to collectively as "the Components."

### Results in Brief

When our audit commenced in June 2020, DOJ did not have a BWC policy and the Components had not taken significant steps to prepare for BWC programs for DOJ LEOs. In the months that followed, the Components made progress estimating program costs and researching equipment and storage platforms. However, the Components stressed to us that DOJ guidance was necessary to ensure clear policy and consistent program implementation. We further found that DOJ's TFO pilot BWC program was successful. As a result, in October 2020, DOJ finalized a formal TFO BWC policy, officially authorizing TFOs across the country to utilize BWCs on certain DOJ operations.

In February 2021, we provided a summary of our concerns to the Acting Attorney General (AAG). Office of the Deputy Attorney General (ODAG) officials reported that, in February 2021, the Department considered formulating recommendations on the specifics of a BWC policy, and that its working group was meeting regularly to consider issues surrounding a BWC policy. In May 2021, we provided a draft of this report to DOJ and the Components for review, and on June 7, 2021, the Deputy Attorney General issued a directive requiring the Components to develop, within 30 days, policies that would require DOJ LEOs to use BWCs on certain

operations. The OIG has not audited these policies as policy development was ongoing.

### Recommendations

Our report includes three recommendations which will, in our judgment, assist DOJ as it reassesses its lack of BWC programs for DOJ LEOs. We requested a response to our draft audit report from DOJ, which can be found in Appendix 4. Our analysis of their response is included in Appendix 5.

### Audit Results

BWCs are an important tool that can enhance law enforcement transparency and accountability, and thereby assist in building and maintaining public trust. In addition, BWCs can provide protection for officers from being falsely accused of wrongdoing, thereby potentially reducing agency liability, and improve the quality of evidence collected during law enforcement operations.

In the past decade, BWC use has become commonplace in large non-federal law enforcement organizations throughout the United States. According to [a study](#) by DOJ's Office of Justice Programs (OJP), as of 2016, about 80 percent of non-federal law enforcement agencies with at least 500 full-time officers had acquired BWCs. Additionally, some federal entities have implemented BWC programs, including select agencies within the Department of the Interior and the Department of Homeland Security's Customs and Border Patrol. In February 2021, Congress reintroduced the George Floyd Justice in Policing Act (JPA), which if passed would, for the first time, require federal LEOs to utilize BWCs during certain operations.

### Prior to June 2021, Neither DOJ nor the Components had Developed BWC Policies, Procedures, or Implementation Plans for DOJ LEOs

DOJ has recognized the value and importance of BWCs and has provided over \$115 million in OJP grant funding

to more than 400 state, local, and tribal law enforcement agencies for implementation of BWC programs, the purchase of BWCs, and training and technical assistance on BWC use. However, at the time of our audit, DOJ had no policy governing BWC use for DOJ LEOs, the Components generally did not own or use BWCs, and the Components had not taken significant steps to prepare for a BWC program for DOJ LEOs. More recently, the Components had, to varying degrees, taken steps to research BWC programs for DOJ LEOs and attempt to estimate program costs.

The Components generally agreed that a BWC program would provide certain benefits. For example, in OIG interviews, Component officials recognized as a positive outcome the increased perception of transparency and accountability that comes with BWC use. Officials also cited improved relationships with partner agency task force operations as a benefit. Evidentiary benefits were noted as well, such as video that could be used during an investigation. Reported challenges were often related to costs, including those for video storage and additional staff needed to implement a BWC program.

In explaining the absence of BWC usage, the Components also cited differences between the federal law enforcement mission and that of state and local agencies, which interact with members of the public on a more regular basis. For example, the Components do not generally conduct traffic stops, police streets, or respond to calls for service. Nonetheless, DOJ LEOs do interact with the public in circumstances where a BWC could have benefits, including the execution of search and arrest warrants. In Fiscal Year 2019 alone, the USMS arrested 90,239 fugitives, many of which were likely planned arrests for which DOJ generally permits its task force members to use BWCs. Further, data reported to the OIG revealed that federal LEOs discharged their weapons in shooting events involving a member of the public in 121 instances between FYs 2018 and FY 2020; at least 107 of those events occurred during the execution of an arrest warrant, other planned arrest, or search warrant.

Furthermore, recent high-profile incidents involving DOJ LEO interaction with members of the public resulted in questions being raised about actions by both the LEOs and the members of the public. For example, the federal presence at Lafayette Square in May to June 2020, and at protests around the country, resulted in allegations of excessive use of force and the failure of LEOs to properly identify themselves. The incidents also involved allegations of members of the public destroying property,

injuring LEOs, as well as engaging in other unlawful activity. The value of BWC to law enforcement also was highlighted when federal LEOs, U.S. Capitol Police, and D.C. Metropolitan Police responded to riots at the U.S. Capitol on January 6, 2021; BWC footage captured by the D.C. Metropolitan Police has been used to file charges against multiple individuals.

In our interviews with Component officials, the lack of direction and guidance from DOJ was cited as a primary obstacle to implementing a BWC program. While no law or policy prohibits the Components from implementing BWC programs independently, Component officials stressed the need for guidance from DOJ that would clarify areas of uncertainty and establish a consistent approach to program implementation across the Department. We believe such guidance would benefit the Components and may assist another DOJ agency – the Federal Bureau of Prisons – which has a policy to record planned use-of-force incidents, but due to the differences in mission, was not included in this audit. A consistent approach would also help ensure that a BWC program assists federal prosecution efforts, as well as the efforts of the many state and local law enforcement agencies with whom the Components collaborate.

### **DOJ Successfully Implemented a Pilot Program for Task Force Officers, and is Working to Expand Participation**

Task force operations are vitally important to the mission of DOJ and involve partnerships between the Components and state and local law enforcement agencies across the country. Until October 2019 DOJ typically did not allow the use of BWCs on its task force operations, even for state and local officers whose parent agency had a BWC program in place. However, in May 2019 the Chief of the Atlanta Police Department (APD) and Mayor of Atlanta withdrew APD officers from all DOJ task force operations in response to a fatal shooting which occurred during an FBI-led task force operation in January of that year, and other police departments publicly stated that they would follow Atlanta's lead if a compromise on the use of BWCs could not be reached.

In response, DOJ announced the creation of a pilot program that would permit BWC use, in certain situations, by task force officers mandated to wear BWC by their parent agencies. The pilot program formally began in November 2019 as DOJ worked to establish memorandums of understanding with partner agencies and finalize its interim policy. BWC use began in January 2020 and lasted through September 1, 2020. During this time, four law enforcement agencies (the Detroit, Houston, Salt Lake

City, and Wichita police departments) partnered with DOJ and were permitted to utilize BWC on some task force operations. This represented a significant step forward for DOJ, and representatives with the partner agencies we spoke with were generally satisfied with the pilot program and DOJ's efforts. In October 2020, DOJ finalized its Task Force Officer (TFO) BWC policy, officially authorizing TFOs across the country to utilize BWC on certain DOJ operations. The Components are now working to expand participation from the initial four partner cities.

### **June 2021 Component and DOJ Update**

The actions and circumstances described previously and throughout this report are generally those undertaken from June 2020, when our audit commenced, to January 2021. In February 2021, we provided a summary of our concerns to the AAG. ODAG officials reported that, in February 2021, the Department considered formulating recommendations on the specifics of a BWC policy, and that its working group was meeting regularly to consider issues surrounding a BWC policy. In May 2021 we provided a draft copy of this report to DOJ and the Components for review, and on June 7, 2021, the Deputy

Attorney General issued a directive requiring the Components to develop, within 30 days, BWC policies that would require DOJ LEOs to use BWCs on certain operations. The OIG has not audited these policies as policy development was ongoing. A copy of our briefing to the AAG can be found in Appendix 2, and a copy of the directive from the Deputy Attorney General can be found in Appendix 3.

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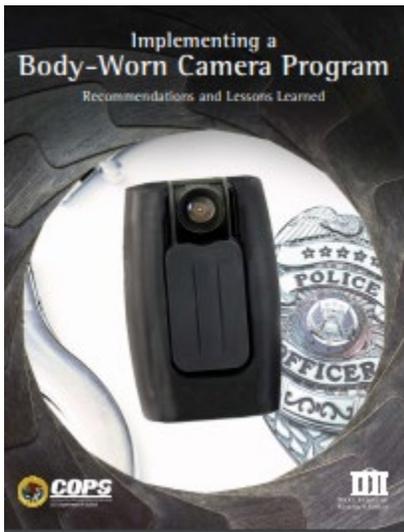
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## Introduction

In the past decade, use-of-force events involving law enforcement officers (LEOs) have led to increased calls from legislators and the public to expand the use of body worn cameras (BWCs). Since 2015, the Department of Justice (DOJ or Department) Office of Justice Programs (OJP) has provided over \$115 million to assist localities as they establish or enhance BWC programs. Such programs have benefits for both LEOs and the public, in that they can hold LEOs accountable for wrongdoing as well as protect those LEOs against false accusations.

In the summer of 2020, following a series of incidents involving the alleged use of excessive force by law enforcement, there were protests across the country related to police brutality and calls for widespread reform. In some cases, these protests were preceded by the public release of video footage which

**Figure 1**  
**Image of a BWC**



Source: DOJ's Office on Community Oriented Policing Services and the Police Executive Research Forum

appeared to show an excessive use of force by law enforcement and served to clarify or even contradict official accounts of events. For example, after the May 25, 2020, death of George Floyd in Minneapolis, Minnesota, the Minneapolis Police Department (MPD) [issued a statement](#) asserting that Mr. Floyd had been resisting officers during his arrest; the statement did not disclose that an MPD officer knelt with his knee on Mr. Floyd's neck for over 9 minutes.<sup>1</sup> After video footage of the event was made public, the MPD updated its previous statement to note the FBI would be investigating the incident. Four members of the MPD were subsequently fired, criminal charges are pending, and on March 12, 2021, a [civil lawsuit was settled](#) for a record \$27 million.<sup>2</sup> On April 20, 2021, one of the involved officers was found guilty of manslaughter in addition to second and third degree murder.

In response to this and other similar events, the [George Floyd Justice in Policing Act of 2020](#) (JPA) was introduced in the House of Representatives.<sup>3</sup> The legislation called for comprehensive reforms to policing in the U.S. and includes significant expansions to the use of the body worn camera (BWC) by law enforcement personnel. Figure 1 depicts an image of a BWC. The legislation would require – for the first time – that federal law

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<sup>1</sup> Minneapolis Police Department (MPD), "[Man Dies After Medical Incident During Police Interaction](#)," and "Investigative Update on Critical Incident" May 25<sup>th</sup> and 26<sup>th</sup>, 2020, <https://web.archive.org/web/20200526121443/https://www.insidempd.com/2020/05/26/man-dies-after-medical-incident-during-police-interaction/> (accessed May 4, 2021).

<sup>2</sup> "[Minneapolis to pay record \\$27 million to settle lawsuit with George Floyd's family](#)," Minneapolis Star Tribune, March 12, 2021, <https://www.startribune.com/minneapolis-to-pay-record-27-million-to-settle-lawsuit-with-george-floyd-s-family/600033541/> (accessed March 24, 2021).

<sup>3</sup> George Floyd Justice in Policing Act of 2020, H.R. 7120, 116<sup>th</sup> Cong. (2021).

enforcement officers (LEOs) use BWCs, in certain situations, as part of their mission. The JPA was passed in the U.S. House of Representatives but did not receive a vote in the Senate. On February 24, 2021, the JPA [was reintroduced](#), and on March 3, 2021, it was again passed in the House of Representatives.<sup>4</sup> The bill was referred to the Senate on March 9, 2021, where it remains as of May 2021.

The use of BWCs has become a staple for many state and local law enforcement agencies across the country. According to [a study](#) conducted by OJP's Bureau of Justice Statistics (BJS), 45 percent of law enforcement agencies in the U.S. had at least some BWCs in service as of 2016, and about 80 percent of agencies with at least 500 full-time officers had acquired BWCs.<sup>5</sup> Additionally, at least five Departments within the federal government – the U.S. Department of the Treasury's Office of Inspector General for Tax Administration; the Department of the Interior's National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Affairs; the Amtrak Police Department; the Department of Agriculture's U.S. Forest Service; and the Department of Homeland Security's Customs and Border Patrol – have, to varying degrees, implemented BWC programs.<sup>6</sup>

Figure 2

A Decade of BWC Use in the United States

- 2010  DOJ's OJP awards \$4.9 million to, in part, study BWC programs for law enforcement.
- 2012  OJP released "A Primer on BWC for Law Enforcement" to mitigate the lack of procedural or technical standards related to BWC use.
- 2013  In response to an OJP survey, an estimated 32 percent of local police departments report that at least some of their patrol officers use BWC.
- 2014  The August 2014 shooting of Michael Brown in Ferguson, Missouri leads to protests and national media coverage. Public calls for BWC are increased. In December 2014, President Barack Obama proposed that the federal government reimburse localities half the cost of implementing BWC programs.
- 2015  OJP begins funding BWC programs across the country - over \$20 million in funding is awarded in the first year.
- 2016-2018  In 2016, OJP conducts another survey to measure BWC usage in state and local law enforcement agencies. The results are released in 2018, and show that about 80 percent of large law enforcement agencies had acquired BWC.
- 2019  In October 2019, DOJ initiates a pilot program which will allow task force officers to use BWC on certain operations. Four cities participate in the pilot program, and the program was made permanent in October 2020.
- 2020  Thousands of DOJ LEOs are present at protests and incidents of civil unrest across the US. These events resulted in complaints regarding excessive use of force by LEOs, the failure of LEOs to properly identify themselves when asked, and allegations of lawbreaking by some protesters.
- 2021  On June 7, 2021, DOJ issued a directive requiring the Components to develop, within 30 days, BWC policies that would permit DOJ LEOs to use BWCs on certain operations.

<sup>4</sup> George Floyd Justice in Policing Act of 2021, H.R. 1280, 117<sup>th</sup> Cong. (2021).

<sup>5</sup> OJP's BJS, "Body-Worn Cameras in Law Enforcement Agencies, 2016," November 2018, <https://www.bjs.gov/content/pub/pdf/bwclea16.pdf>, (accessed January 26, 2021).

<sup>6</sup> The DOJ OIG, which has more than 120 federal LEOs, has begun developing its own BWC program. The OIG has taken steps to draft a BWC policy, hire staff, and purchase equipment with a goal of launching its BWC program no later than FY 2022.

## The DOJ and Body Worn Cameras

DOJ has studied, supported, and promoted state, local, and tribal law enforcement use of BWCs for over a decade, and DOJ's OJP grant awards have provided over \$115 million to fund BWC programs, including \$102.7 million in direct assistance to over 400 state, local, and tribal law enforcement agencies to establish or improve their BWC programs, and \$12.5 million in training and technical assistance.<sup>7</sup> As shown in the timeline of BWC events in Figure 2, these programs and other efforts funded by DOJ have allowed for expansion of BWC programs across the U.S.<sup>8</sup>

However, as of May 2021, when we provided a draft copy of this audit report to DOJ for review, DOJ had no policy regarding BWC use by DOJ LEOs, and the DOJ components included in this audit – the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); and the United States Marshals Service (USMS), referred to collectively as “the Components,” – generally do not own or use BWCs. When our audit commenced in June 2020, none of the Components had taken significant steps to plan or prepare for a BWC program for DOJ LEOs. Challenges and rationales cited by the Components included the cost of a BWC program, the additional resources that would be required to implement such a program, and the difference between the federal mission and that of many state and local law enforcement organizations. Additionally, in our interviews with Component officials, the lack of guidance or direction from DOJ was also cited as a primary reason BWC programs were not in place. While no law or policy formally prohibits the Components from implementing BWC programs independently, Component officials stated that they did not intend to implement BWC programs unless directed by DOJ to do so, stressing the need for guidance and funding that would establish a consistent approach to program implementation across the Department.

In our judgment, Department-wide guidance would benefit the Components and may assist another DOJ agency – the Federal Bureau of Prisons – which has policy to record planned use-of-force incidents but does not have a full BWC program, and due to the difference in mission was not included in this audit. Further, a consistent approach would help to ensure that a BWC program would assist federal prosecution efforts, as well as the efforts of the many state and local law enforcement agencies with whom the Components collaborate. In our conversations with officials from the Office of the Deputy Attorney General (ODAG), we

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<sup>7</sup> As shown in Figure 2, OJP also awarded funds to research BWC programs. These funds are not reflected in the \$115 million total as research grants can include funding in multiple areas, not just those related to BWCs.

<sup>8</sup> OJP Grant Management System (accessed February 11, 2021); “*A Primer on Body-Worn Cameras for Law Enforcement*,” September 2012, <https://www.ojp.gov/pdffiles1/nij/nlectc/239647.pdf>, (accessed June 26, 2020); BJS, “*Local Police Departments, 2013: Equipment and Technology*,” NCJ248767, July 2015, <https://www.bjs.gov/content/pub/pdf/lpd13et.pdf> (accessed January 14, 2021); The White House Office of the Press Secretary, “*FACT SHEET: Strengthening Community Policing*,” December 1, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/12/01/fact-sheet-strengthening-community-policing> (accessed March 19, 2021); DOJ Office of Public Affairs, Press Release, “*Justice Department Awards over \$23 Million in Funding for Body Worn Camera Pilot Program to Support Law Enforcement Agencies in 32 States*,” September 21, 2015, <https://www.justice.gov/opa/pr/justice-department-awards-over-23-million-funding-body-worn-camera-pilot-program-support-law> (accessed June 22, 2021); BJS; “*Body-Worn Cameras in Law Enforcement Agencies, 2016*,” NCJ251775, November 2018, <https://bjs.ojp.gov/content/pub/pdf/bwclea16.pdf>, (accessed June 29, 2020); DOJ Office of Public Affairs, Press Release, “*Department of Justice Announces Pilot Program for Use of Body-Worn Cameras by Federally Deputized Task Force Officers*,” October 28, 2019, <https://www.justice.gov/opa/pr/department-justice-announces-pilot-program-use-body-worn-cameras-federally-deputized-task> (accessed June 22, 2021).

learned that communication between ODAG and the Components is underway in order to further explore the issue of BWC use by the Components.<sup>9</sup>

The Components demonstrated, to varying degrees, progress towards researching a BWC program for DOJ LEOs since the initial introduction of the JPA and the initiation of this audit in June 2020. For example, USMS has attempted to forecast costs for a BWC program, and the ATF, DEA, and FBI have all taken preliminary steps to research BWC technology and have obtained quotes for BWCs and the associated video management systems for DOJ LEO use. Additionally, ODAG officials reported that, in August 2020, ODAG met with the Components to obtain their input on the application of BWCs for DOJ LEOs and to discuss obtaining cost estimates for a BWC program. A more detailed summary of Component actions taken to date is included later in this report. However, significant work remains, such as determining the type of operations to which a BWC program would apply, forecasting the associated staff for whom BWCs would be needed, and establishing necessary policies, protocols, and training that would govern a BWC program. ODAG also reported that, in December 2020, DOJ held a nationwide web-based training program for United States Attorneys' Offices (USAO) on the discovery and logistical implications of the new TFO body-worn camera policy. In our judgment, such training should also assist DOJ in the development and implementation of BWC programs for DOJ LEOs.

In February 2021, we provided a summary of our concerns to the Acting Attorney General (AAG), and in May 2021 we provided a draft copy of this report to DOJ and the Components for review. ODAG officials reported that, in early February 2021, the Department discussed the next steps to include formulating recommendations on the specifics of a BWC policy, a phased implementation, and a plan to purchase cameras and store footage. ODAG officials further stated that its working group met regularly to consider issues surrounding a BWC policy, and has met with DOJ's Justice Management Division (JMD) to discuss detailed cost estimates to implement a BWC program, including a single contract involving multiple components, and to begin designing evaluation metrics that can be used to measure the impact of the DOJ agent BWC policy. Work in this area is ongoing. On June 7, 2021, DOJ [issued a directive](#) requiring the Components to develop, within 30 days, BWC policies that would require DOJ LEOs to use BWCs on certain operations.<sup>10</sup> Again, the OIG has not audited these policies as policy development was ongoing.

### **DOJ's BWC Pilot Program for Task Force Operations**

Until November 2019, DOJ did not typically allow the use of BWCs on operations that the Components conducted with state and local law enforcement personnel. These operations, referred to as task force operations, are vitally important to the mission of DOJ and involve partnerships between the Components and state, local, and tribal law enforcement agencies across the country. However, on January 22, 2019, an FBI fugitive task force including officers with the Atlanta Police Department (APD) and Special Agents with the FBI attempted to serve an arrest warrant for an individual suspected of armed robbery. During the operation, an APD officer fired his weapon, fatally hitting the suspect. The incident prompted high levels of media coverage and public demands for accountability, and in May 2019 the Atlanta Chief of Police and

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<sup>9</sup> In February 2021, we provided the AAG a summary of our preliminary results and other items for consideration should DOJ decide to implement a BWC program for DOJ LEOs. A copy of that briefing memorandum is included in Appendix 2.

<sup>10</sup> DOJ, "Body-Worn Camera Policy," June 7, 2021, <https://www.justice.gov/dag/page/file/1402061/download> (accessed June 8, 2021).

Atlanta Mayor announced that all APD officers would be pulled from joint task forces with the DOJ. Other police departments voiced similar concerns, and some publicly stated that they would follow Atlanta's lead if a compromise on the use of BWCs could not be reached between their agencies and DOJ.

In late 2019, in response to these events, DOJ initiated a pilot program that would permit, in certain situations, BWC use during DOJ operations by task force officers mandated to wear BWCs by their parent agencies. The pilot program formally began in November 2019 as DOJ worked to establish memorandums of understanding with partner agencies and finalize its interim policy; BWC use on these operations began in January 2020 and lasted through September 1, 2020.<sup>11</sup> During this time, four law enforcement agencies (the Detroit, Houston, Salt Lake City, and Wichita police departments) partnered with DOJ and were permitted to utilize BWCs on some task force operations. This was a significant step forward for DOJ, and representatives with the partner agencies we spoke with were generally satisfied with the pilot program.

### **OIG Audit Approach**

The objectives of this audit were to: (1) review and assess the Department's current BWC policy for DOJ LEOs, (2) evaluate the extent to which BWCs were utilized during the Department's task force pilot program, and (3) assess any plans to expand the use of BWCs among DOJ LEOs and federally deputized task force participants. Our audit covered DOJ's four primary law enforcement components – ATF, DEA, FBI, and USMS. Our audit generally covered, but was not limited to, DOJ's BWC-related activities between October 2019, when DOJ's BWC pilot program was announced, and January 2021.

To accomplish our objectives, we:

- Interviewed officials with ATF, DEA, FBI, USMS, and ODAG;
- Reviewed current and pending policies and procedures for each Component;
- Audited data related to use of BWCs during DOJ's BWC pilot program;
- Interviewed officials with police departments that participated in DOJ's BWC pilot program;
- Analyzed 3 years' worth of firearm and use-of-force complaints submitted to the OIG by the Components, through another federal agency, or through the OIG's hotline;
- Reviewed high-profile use-of-force;
- Reviewed legislation introduced in Congress that relates to the use of BWC by federal LEOs;

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<sup>11</sup> While the pilot program formally ended on September 1, 2020, each component allowed the selected partner agencies, discussed in detail later in this report, to continue using BWCs on task force operations.

- Analyzed studies and reviews regarding BWC program best practices, benefits, and challenges;
- Reviewed the use of BWCs among other law enforcement entities within the federal government, and;
- Gathered and reviewed data from OJP's BWC-related grant award programs.

Appendix 1 includes a more detailed description of our audit objectives, scope, and methodology.

## Audit Results

As of May 2021 – over 10 years since DOJ initiated BWC research efforts, and over 5 years since OJP began funding BWC training, technical assistance, and implementation programs for state and local law enforcement organizations – the Components generally did not own BWCs, and Component LEOs do not use BWCs during DOJ operations. Over the course of our audit, we found that the Components were generally unprepared to implement BWC programs if required.

Given the demonstrated benefits of BWC programs, their widespread use by law enforcement agencies across the country, the Components' substantial involvement in street-level enforcement activity, the public's increasing expectation that objective video evidence be available in law enforcement interactions with the public – especially those involving use of force – and recent legislation introduced by Congress that would require federal LEOs to use BWCs, we believe that the DOJ should carefully reassess its lack of BWC programs for DOJ LEOs and pursue the actions necessary to prepare for program implementation. An effectively implemented and consistently utilized BWC program would enhance transparency and accountability, both of which are vital to building and maintaining public trust in law enforcement. To this end, we make three recommendations to DOJ to assist in these efforts. In February 2021, we provided a summary of our concerns to the Acting Attorney General (AAG), and in May 2021 we provided a draft copy of this report to DOJ and the Components for review. ODAG officials reported that, in early February 2021, the Department discussed the next steps to include formulating recommendations on the specifics of a BWC policy, a phased implementation, and a plan to purchase cameras and store footage. ODAG officials further stated that its working group met regularly to consider issues surrounding a BWC policy, and has met with JMD to discuss detailed cost estimates to implement a BWC program, including a single contract involving multiple components, and to begin designing evaluation metrics that can be used to measure the impact of the DOJ agent BWC policy. Work in this area is ongoing. On June 7, 2021, DOJ issued a directive requiring the Components to develop, within 30 days, BWC policies that would require DOJ LEOs to use BWCs on certain operations. Again, the OIG has not audited these policies as policy development was ongoing.

### **Body Cameras Could Enhance Transparency and Accountability, and Provide DOJ with Potentially Important Evidence in Use-of-Force Cases and other Criminal Investigations**

The Department's Civil Rights Division investigates and prosecutes excessive use-of-force cases, and DOJ states that it vigorously investigates and, where the evidence permits, prosecutes allegations of Constitutional violations by LEOs, the most common of which are alleged uses of excessive force.<sup>12</sup> While important forensic evidence may be available, use-of-force investigations can also rely on narrative accounts from the involved officers, other responding officers, the individual who was arrested, and other witnesses to an event. In some cases, including incidents involving DOJ LEOs, the accuracy of such narrative accounts has been publicly called into question. Several such cases are currently under investigation by the OIG. Additionally, a BWC program can also provide protection for officers from being falsely accused of

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<sup>12</sup> DOJ, "Law Enforcement Misconduct – Investigations and Prosecutions," July 6, 2020, <https://www.justice.gov/crt/law-enforcement-misconduct> (accessed January 7, 2021).

wrongdoing, thereby potentially reducing agency liability, and improve the quality of evidence collected during law enforcement operations.

Component LEOs do not generally conduct traffic stops, police streets, or respond to calls for service. However, we found that the Components interact with the public in circumstances where a BWC could have benefits, including the execution of search and arrest warrants. For example, in Fiscal Year (FY) 2019 alone, the USMS arrested 90,239 fugitives, many of which were likely planned arrests for which DOJ generally permits its task force members to use BWCs. Further, our review of use-of-force data for FY 2018 through 2020 identified 121 instances in which DOJ LEOs discharged their weapons in shooting events involving a member of the public; of that total, we determined that 107 events occurred during the execution of an arrest warrant, other planned arrest, or search warrant, circumstances under which BWCs would have been permitted under DOJ's TFO pilot program, and would likely be permitted by any forthcoming Component policy.<sup>13</sup>

Interaction between Component LEOs and members of the public received widespread attention throughout 2020 as federal LEOs responded to the ongoing civil protests across the country. For example, DOJ LEO presence at Lafayette Square in May to June of 2020 resulted in allegations regarding excessive use of force and the failure of LEOs to properly identify themselves. The incidents also involved allegations of members of the public destroying property, injuring LEOs, as well as engaging in other unlawful activity. The complaints prompted the OIG to open a review of the events; as of May 2021, that review is ongoing. Further, in July 2020, federal officers were deployed to Portland, Oregon, prompting mayors of six U.S. cities to [draft a public letter](#) to the Attorney General and Acting Secretary of the Department of Homeland Security (DHS).<sup>14</sup> The letter expressed concerns, noting that the "unilateral deployment of these forces into American cities is unprecedented and violates fundamental constitutional protections and tenets of federalism." The letter also specifically objected to the lack of BWC use noting that communities have expectations for law enforcement that includes recorded body camera footage. Again, OIG review of these events is ongoing as of May 2021.

Additionally, the rioting at the Capitol on January 6, 2021, and the attacks on law enforcement by the rioters, further demonstrated the potential value of BWCs. Officers from the Components, D.C. Metropolitan Police, and the U.S. Capitol Police responded to the breach of the U.S. Capitol, but only the D.C. Metropolitan Police use BWCs. In effort to obtain the public's assistance in identifying those involved in the riots, the [FBI has released extensive video footage](#) and has used BWC footage to support charges against multiple individuals; these charges include, but are not limited to, forcibly assaulting an officer and obstruction of law

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<sup>13</sup> A single shooting "event" can include more than one shot being fired. These OIG figures were developed from FY 2018 and 2019 data as of July 2020 and FY 2020 data as of November 2020. Additionally, these figures may not encapsulate the total number of events due to delays in reporting.

<sup>14</sup> Durkan, Jenny A., Bottoms, Keisha Lance, Lightfoot, Lori, Bowser, Muriel, Lucas, Quinton D., Wheeler, Ted, Letter to the Honorable William Barr, Attorney General, DOJ, and the Honorable Chad Wolf, Acting Secretary, DHS, July 20, 2020, <https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/07/07.20.20-Letter-to-DOJ-and-DHS.pdf> (accessed January 26, 2021).

enforcement.<sup>15</sup> These events prompted renewed calls for BWC use and resulted in [legislation being introduced](#) that would require a BWC program for U.S. Capitol Police.<sup>16</sup>

## **Component Perspectives on BWCs: Challenges, Benefits, and Actions Taken**

As previously noted, BWCs have become a staple for many law enforcement agencies across the United States, and DOJ supports and promotes these programs through OJP's grant award programs. However, DOJ has no policy governing BWC use by DOJ LEOs, and therefore the Components generally do not own or use BWCs. In addition, the Components had not taken significant steps towards implementing such a program for DOJ LEOs by June 2020, when we initiated our audit. We interviewed Component officials to assess the perceived challenges and benefits relating to the use of BWCs. As our work progressed, the Components provided updated information, which demonstrated that, in some cases, steps were underway to research or prepare for BWC programs for federal LEOs. The results of our analysis and component perspectives, including actions undertaken as DOJ works to develop its interim policy, are summarized below.

### **Bureau of Alcohol, Tobacco, Firearms and Explosives**

ATF officials have conducted preliminary analysis to estimate the number of agents who may be impacted by a BWC program and stressed that the estimate may be revised as additional research is conducted. ATF has also reviewed BWC models from various manufacturers and undertaken research on available video management systems. Further, ATF has obtained quotes on both BWC equipment and video management and has contracted to expand the use of video management for TFO BWC footage for up to 5 years. ATF also hired one full time employee to assist with implementation of the DOJ pilot program, and additional BWC-related evaluation.

However, ATF officials also stated that an agency-wide body worn camera program is not a ready-made project and it will take additional efforts and resources to implement. Referencing the expansion of the program bureau-wide, ATF officials stated, "we have no infrastructure, such as physical, technical, or storage-wise to implement... We would be building from the ground up." Finally, while ATF officials acknowledged certain benefits of a BWC program – for example, bringing additional transparency to the process and other evidentiary benefits – they also highlighted concerns, including ensuring that any publicly released video provides full context of the recorded event. ATF also noted confusion with some language in the JPA, particularly in relation to the definition of "uniformed officers," and cited the costs associated with implementing a BWC program as primary challenges. ATF officials estimated that a reasonable timeframe for program planning and implementation would be approximately 24 months from the time ATF decided or was directed to create a BWC program for ATF LEOs.

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<sup>15</sup> FBI, "U.S. Capitol Violence," February 2, 2021, <https://www.fbi.gov/wanted/capitol-violence/#News> (accessed May 6, 2021).

<sup>16</sup> "To require uniformed officers of the U.S. Capitol Police to utilize body-worn cameras while on duty," H.R. 284, 117<sup>th</sup> Cong. (2021).

In May 2021, ATF officials reported that ATF provided DOJ with a cost estimate for an interim BWC program, as well as a cost estimate for an ATF BWC program. Further, ATF officials stated that draft policy outlines the type of operations for which a BWC program would apply.

### **Drug Enforcement Administration**

DEA has also evaluated BWC equipment from a technical perspective and has coordinated with agencies familiar with online video management systems with the intent of transitioning from its current hard copy video storage system. Further, DEA officials stated that they are in the process of researching BWC companies and evaluating quotes on equipment and storage platforms. Once these cost estimates are complete, DEA officials said DEA intends to purchase cameras for testing to allow DEA to determine which model may be best suited to its needs.

Similar to ATF, DEA officials noted the potential benefit of this type of program, such as increased accountability and transparency, as well as maintaining partnerships with state and local agencies who use BWCs as part of their daily operations. Compliance with industry best practices and high-quality evidence in support of an investigation were also cited as benefits. Challenges included the potential impact on operations with law enforcement partners who do not use BWCs if DEA agents were to wear BWCs, the need for consistent policies and procedures across DOJ that would be acceptable to DEA, and other concerns relating to current technology.

In May 2021, DEA reported that it has initiated the contracting process for BWC equipment. DEA stated that upon completion of this process it will then implement Phase 1 of DOJ's nationwide BWC program, which will commence in October 2021. DEA anticipates completing this program by April 2022 and will complete an evaluation of the program in May 2022.

### **Federal Bureau of Investigation**

FBI noted that its research in this area is ongoing and emphasized that it has made no decision on the implementation of an internal BWC program. However, FBI provided evidence that it has obtained quotes on BWC equipment and video management systems. Further, FBI provided a copy of draft Standard Operating Procedures outlining a BWC pilot program for FBI agents when executing search and/or arrest warrants, but noted it has no imminent plans to implement this policy absent direction from DOJ or Congress.

Similar to ATF and DEA, FBI cited the public perception of increased transparency and accountability, particularly in cases in which the use of deadly force is involved, as a benefit to implementing a BWC program. Challenges to program implementation included the development of policy, and FBI officials cited the need for and the importance of policy direction coming from DOJ. FBI also noted that the increased training needs would be a factor, as well as the overall cost of a BWC program. In May 2021, FBI officials reported that they are coordinating with ODAG to draft an interim policy to allow the use of BWCs on certain DOJ operations. FBI officials also stated that this policy will allow DOJ to seek appropriate funding from Congress for the use of BWCs and stressed that the lack of resources is now the most significant hurdle to implementing a BWC program for DOJ LEOs.

### United States Marshals Service

In response to the 2020 introduction of the JPA, the USMS has conducted a preliminary projection of costs related to storage capabilities if implementation expanded to federal agents under the legislative proposal. The USMS also obtained several BWC models to better understand the equipment that might be used by TFOs during the pilot program to enable that program's development and to address access and storage issues that may arise. During our audit, USMS reported that it had not performed research relating to equipment to be used by its federal personnel. However, in May 2021, USMS provided an update stating that it had performed research on the needs of USMS, including compliant technology options, and had identified a vendor that meets federal requirements, to develop an approach for a DOJ BWC program. USMS also stressed that as part of the TFO BWC program, it developed a video management system and instituted an agency review processes that were scaled to support a BWC program for DOJ LEOs. Finally, USMS stated that lessons learned during the TFO BWC program were catalogued for use in development of a BWC program for DOJ LEOs.

The actions by the four Components that are summarized above, most of which were undertaken since June 2020, represent positive steps. However, DOJ lags far behind several other federal agencies that, as

**Figure 3**

### Examples of Federal Agencies with BWC Programs



As of October 2017, the Treasury Inspector General for Tax Administration required BWC for its Office of Investigations during enforcement operations such as arrests, search warrants, and armed escorts.



By January 2018, law enforcement in the Department of the Interior's (DOI) National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Affairs had implemented BWC programs to varying degrees.



In May 2019 the Amtrak Police Department began to roll-out BWC to all LEOs in the department.



In September 2019 the U.S. Forest Service announced plans to deploy BWC to LEOs and agents across its law enforcement and investigative agency in multiple phases.



In September 2020 the Department of Homeland Security's Customs and Border Protection announced the phase-in of a \$13 million BWC program.



In February 2021, the U.S. Park Police announced plans to equip all LEOs with BWC within 90 days, further expanding DOI's use of BWC.

shown in Figure 5, have or are in the process of implementing their own BWC programs.<sup>17</sup> In addition, and as described further in the next section, the perspectives of the Components makes clear that coordination between the Components and DOJ will be essential to ensuring that each Component prepares for and implements BWC programs that are consistent with the expectations of DOJ and Congress.

## **DOJ Should Coordinate with the Components, and USAOs, to Ensure Consistency in BWC Program Preparation and Implementation**

Our analysis of preparedness was conducted on a component-by-component basis, with input from ODAG. Through this review, we identified several areas in which initial actions, judgments, or determinations may be more suitably addressed by DOJ rather than at the Component level. Additionally, while no law or policy prohibits the Components from implementing a BWC program independently, Component officials stressed the need for guidance from DOJ that would establish a consistent approach to program implementation across the Department. This approach would also ensure that Department-wide policy issues – such as how a BWC program can remain consistent with the Department’s cybersecurity efforts – will be appropriately considered during the planning and implementation of a BWC program. In our judgment, such guidance would benefit the Components and may assist another DOJ agency – the Federal Bureau of Prisons – which has a policy to record planned use-of-force incidents, but due to the difference in missions, was not included in this audit. Further, a consistent approach would help to ensure that a BWC program assists federal prosecution efforts, as well as the efforts of the many state and local law enforcement agencies with whom the Components collaborate. We recommend that DOJ carefully reassess the lack of BWC usage by DOJ Components and pursue actions that would prepare DOJ for program implementation. This assessment should begin by determining the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations, and using that determination, developing a forecast of costs associated with equipment purchases, video storage, and other resources, such as staffing.

We also recommend that DOJ coordinate with the Components to identify other cross-cutting policy issues and promulgate policy that would allow the Components to develop and implement their own BWC programs. In this effort, DOJ should employ lessons learned from its TFO BWC program, which we discuss in more detail later in this report. Other items for consideration include, but may not be limited to: (1) BWC activation and deactivation requirements; (2) video retention requirements; (3) privacy concerns, including but not limited to recording members of the public, recording inside a residence, recording inside a medical facility, or recording minors, and (4) the development of policy governing the release of BWC footage to the

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<sup>17</sup> Treasury Inspector General for Tax Administration, Operations Manual, Chapter 400 - Investigations, 450 Body Worn Camera Program (October 1, 2017), <https://www.treasury.gov/tigta/foia/efoia-imds/chapter400-inv/400-450/chapter400-450.docx> (accessed October 26, 2020); U.S. Department of the Interior (DOI) Office of the Inspector General (OIG), *U.S. DOI Law Enforcement’s Body Camera Policy and Practices Are Not Consistent With Industry Standards*, Report 2017-WR-012 (January 2018), [https://www.doioig.gov/sites/doioig.gov/files/FinalEvaluation\\_BodyCameras\\_013018.pdf](https://www.doioig.gov/sites/doioig.gov/files/FinalEvaluation_BodyCameras_013018.pdf) (accessed October 26, 2020); Amtrak Police Department, Annual Report, 2019, [https://police.amtrak.com/images/2019\\_annual\\_report.pdf](https://police.amtrak.com/images/2019_annual_report.pdf) (accessed October 28, 2020); U.S. Department of Agriculture, “Privacy Impact Assessment for Law Enforcement and Investigations Vault,” January 16, 2020, <https://www.usda.gov/sites/default/files/documents/fs-lei-vault-pia.pdf> (accessed February 10, 2021); U.S. Department of the Treasury, Bureau of the Fiscal Service (accessed February 11, 2021); U.S. Department of Homeland Security, U.S. Customs and Border Protection, National Media Release, “CBP awards contract for agent body cameras,” September 23, 2020; U.S. Park Police, “U.S. Park Police Chief Pamela Smith implements body worn camera program,” May 20, 2021, [https://www.nps.gov/subjects/uspp/sf\\_bwc\\_rollout.htm](https://www.nps.gov/subjects/uspp/sf_bwc_rollout.htm) (accessed June 22, 2021).

public. Finally, the OIG regularly audits multi-component contracts that can be used to maximize the purchasing power of the federal government to ensure cost savings. As of May 2021, none of the Components have entered into contracts with BWC vendors to equip their staff with BWCs. As DOJ works to research BWC programs, we recommend that DOJ coordinate with the Components, and any other DOJ agencies to whom a BWC program may apply, to assess the suitability of a single contract involving either multiple DOJ components or multiple federal agencies so as to leverage the purchasing power of the federal government to ensure maximum cost savings.

Further, while our audit focused on ATF, DEA, FBI, and USMS, the implementation of a BWC program anywhere at DOJ should be coordinated with the Civil Rights Division (CRT) and USAOs, whose staff would, in some cases, be required to review video evidence obtained through DOJ BWCs. In response to a December 2020 mid-audit briefing provided to the Components, DEA specifically stressed the impact a BWC program

would have on the USAOs and other federal defense and prosecutorial resources. These impacts are likely to include, but may not be limited to, additional resources to review BWC-generated evidence, staff available to review and respond to Freedom of Information Act requests, and other litigation discovery requests. While we did not audit CRT or the USAO and therefore do not make recommendations specific to those agencies, DOJ should be cognizant of the potential impact on the CRT and USAO resources should it move forward with the development and implementation of a BWC program.

*The cost of a BWC program is significant. In FY 2020, the New York Police Department (NYPD) spent approximately \$8.5 million to equip its 23,000 officers with BWC, store the video evidence, and cover other related costs.*

Source: NYPD public data and New York City Comptroller's Office

Additionally, while the benefits of video retention for operations involving the use-of-force are clear, video management contributes significantly to the overall cost of a BWC program. Currently, the JPA states that, in general, BWC "footage shall be retained by the law enforcement agency that employs the LEO whose camera captured the footage, or an authorized agent thereof, for 6 months after the

date it was recorded, after which time such footage shall be permanently deleted." Footage that captures an interaction or event involving any use of force or any stop about which a complaint has been registered by a subject of the video footage would need to be retained for a minimum of 3 years. Additional circumstances under which a 3-year retention period apply include LEO requests for potentially exculpatory footage or agency-identified training needs. Additionally, footage would need to be retained for a minimum of 3 years if requests are made by: (1) members of the public who are the subject of the video footage; (2) the parent or legal guardian of a minor who is the subject of the video footage; or (3) a deceased subject's spouse, next of kin, or legally authorized designee.<sup>18</sup> As previously noted, in Fiscal Year 2019 alone, the USMS arrested 90,239 fugitives, and any given arrest may involve multiple agents each activating their own camera. A requirement that all video – potentially thousands of recordings per day (USMS reports an average of 361 arrests per day), and hundreds of thousands per year – may be extremely burdensome on staff and resources. We notified DOJ officials of this area of concern in our mid-audit briefing memorandum, which can be found in Appendix 2 of this report, and believe DOJ should remain cognizant of this issue as it reassesses its position on BWC use and engages with Congress on legislative proposals.

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<sup>18</sup> As the JPA has not been passed as of May 2021, this language is subject to change.

Finally, as part of our work, we reviewed multiple studies and assessments of BWC programs to identify best practices that DOJ and the Components should consider if a BWC program is developed and implemented. This body of work included, but was not limited to, publications funded by DOJ's Office of Community Oriented Policing Services (COPS Office) in partnership with the Police Executive Research Forum, OJP's Bureau of Justice Statistics, OJP's National Institute of Justice, and publications from the International Association of Chiefs of Police. We also interviewed Component staff and members of law enforcement agencies that partnered with DOJ during its TFO BWC pilot program, discussed in more detail in the following section of this report, and reviewed draft policies and procedures to identify known challenges to implementing a BWC program. Based on this work, we provide a list of detailed actions that would assist DOJ and the Components should a BWC program for federal LEOs be developed and implemented.

Items for consideration fall into three general areas: (1) review, testing, and selection of BWC systems, including cameras, docking stations, and other necessary items, and video storage; (2) development of policies, procedures, and training programs; and (3) deployment of a BWC pilot program. We discuss each of these elements as well as OIG work conducted to date in the corresponding sections below.

### **BWC Systems**

Over the course of this audit, we reviewed, to the extent it was available, research conducted by the Components related to BWC equipment and video management systems. We also compared that research to a list of BWC manufacturers to determine if the Components' initial efforts focused on BWCs that would be suitable for purchase based on the August 2019 Federal Acquisitions Regulation (FAR) prohibition 4.2102 that prohibits agencies from purchasing such technologies from providers that are owned or controlled by the government of certain foreign countries.<sup>19</sup> We identified no indication that the Components were researching or obtaining quotes on equipment from prohibited manufacturers, though our evaluation in this area was limited to the extent that Component research remains in the preliminary stages.

We also noted variations in equipment technological and security capabilities between BWC manufacturers and video management system developers, such as differences in video management capabilities, redaction capabilities, and data security capabilities. As DOJ and the Components move forward with identifying BWC equipment that is suitable for purchase, compliance with information technology criteria established by DOJ's Office of the Chief Information Officer's Information Technology, and language in the JPA that expressly prohibits the use of features such as facial recognition, should be considered. However, at this time, we identified no indication that the Components were researching or obtaining quotes on equipment that appeared to violate this guidance.

Finally, existing BWC guidance and training, which was developed using funding from DOJ's OJP identified the need for testing that includes the evaluation of general video quality, low-light video quality, and audio quality. Again, because the Components have not started testing cameras, or are in the very early stages of

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<sup>19</sup> FAR Subpart 4.21, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment, Section 4.2101 and 4.2102. "Covered telecommunications equipment or services" includes select manufacturers and subsidiaries and telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the FBI, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

doing so, our work in this area was limited. However, in preparation for a BWC program, the research that Components perform related to BWC equipment and video management solutions is essential. The Components should ensure that the BWC equipment ultimately purchased is compliant with DOJ guidance; and that any review and testing process includes evaluation of video clarity, ease of use, video encryption, and inclusion of other special features that may strengthen the gathering of evidentiary footage. In addition, the Components should ensure that video management systems selected can accommodate the influx of videos created under a BWC program and: (1) allow for the sharing of video between DOJ components; (2) allow for the sharing of video evidence with members of the public as authorized by federal law or other regulations and rules; (3) provide for appropriate safeguards, user roles, and audit trails to ensure the integrity of video evidence; (4) meet the requirements of existing guidance, such as Cybersecurity policy statements issued by DOJ's Office of the Chief Information Officer; and (5) meet the requirements of any other guidance that may be drafted to prepare for a BWC program.

### **Policies, Procedures, and Training Programs**

Proper training on the use of BWCs and corresponding video management systems will also be required. Areas for consideration in any agency training include basic items, such as teaching staff how to use BWC equipment and upload BWC videos to the designated storage platforms. Staff will also require training on any new policies and procedures that are developed by DOJ or the Components, including policies for downloading, accessing, and reviewing BWC-generated video evidence, and processes for documenting and reporting BWC equipment that may be malfunctioning. DOJ has funded, through OJP, [extensive guidance and other materials](#) to assist in training law enforcement on the proper use of BWCs.<sup>20</sup> Much of that guidance is likely to assist the Components as they develop internal training programs. In preparation for a BWC program, Components should develop policy and protocols that include, but may not be limited to:

- The development and implementation of internal training programs for LEOs using BWCs, supervisors or others who may be reviewing or managing BWC footage, and others, such as attorneys or investigators who may also be affected by a BWC program.
- The establishment of rules, policies, and procedures to ensure videos are not improperly accessed, shared, tampered with, or deleted, and which outline clear and auditable user roles and responsibilities for staff which include, but may not be limited to, password or other protections for users who create, upload, review, share, or otherwise interact with BWC evidence.
- The development and implementation of policies and procedures covering the proper removal of data and disposal of existing equipment when new or upgraded units are received.
- The development and implementation of policies and procedures to ensure clear and consistent tagging and categorization of video evidence to assist in the maintenance of BWC storage and retrieval, and clear and consistent versioning of files if they have been redacted or otherwise modified.

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<sup>20</sup> OJP's Bureau of Justice Assistance, "[Training: Body-Worn Camera Toolkit](https://bja.ojp.gov/program/bwc/topics/training)," <https://bja.ojp.gov/program/bwc/topics/training> (accessed March 24, 2021).

- The development of oversight policies and procedures that ensure those wearing BWCs operate the equipment in compliance with established guidelines. This should include, but may not be limited to, camera placement that ensures clear audio and video recording as well as compliance with established activation and deactivation requirements.

### **A BWC Pilot Program for DOJ LEOs**

As the Components do not use BWCs as part of their mission, we believe a period of real-world testing, through pilot programs for Component personnel, would assist in the development and ultimate implementation of a final BWC program. This approach is similar to and would implement lessons learned from the DOJ as it developed its TFO pilot program, but will also require an emphasis on actual testing of BWC equipment and systems, which Component staff will largely be using for the first time. Based on our discussions with Component personnel and analysis of the DOJ pilot program, this testing should include, but may not be limited to: (1) issues regarding camera placement and video quality; (2) adherence to activation and deactivation protocols; and (3) video upload, storage, and review. The DOJ's TFO BWC pilot program was initiated, conducted, and completed in approximately 1 year and we believe that a similar timeframe would allow the Components to establish and implement a BWC pilot program for Component staff, analyze the implementation of the program, and make any necessary adjustments to interim BWC policies and procedures. In May 2021 the Components reported that they are working to implement a pilot as part of DOJ's pending interim policy.

### **Task Force BWC Pilot Program and New DOJ Policy on Task Force BWC Use**

In the fall of 2019, DOJ announced the creation of a BWC task force pilot program that would allow local partners in select cities for whom BWC use is mandated by their parent agency to use those agency-issued BWCs while operating as federally deputized TFOs. The pilot program was developed by DOJ after several local jurisdictions threatened to withdraw from DOJ law enforcement task forces if their LEOs were prohibited from using BWCs during task force operations. While the pilot program did not permit DOJ LEOs to utilize BWCs, it did prompt the Components to, in some cases, test BWC equipment to better understand the technology. Further, to varying degrees, the Components have gained experience in managing video storage platforms to review and maintain BWC footage created during TFOs. Finally, officials from the ODAG and the Components were heavily involved in drafting DOJ's interim and final policy, which include guidance regarding video activation, deactivation, the type of operation on which BWC were permitted, and other issues. As discussed in the previous section of this report, DOJ will need to carefully consider each of these areas should a BWC program be implemented for DOJ LEOs. DOJ officials should use the experience obtained during the TFO BWC program as it reassesses its current position on BWC for DOJ LEOs.

### **BWC Use During the Pilot Program**

Four cities participated in the pilot program: Detroit, Houston, Salt Lake City, and Wichita. Four other cities initially identified as potential partners – Oakland and San Diego, California; Phoenix, Arizona; and Minneapolis/St. Paul, Minnesota – elected not to participate. While Phoenix was initially included at the request of the FBI, it was quickly determined that Phoenix task force officers were detectives, and therefore not required by their agency to utilize BWC while on duty. The remaining three cities elected not to participate in the pilot program due to concerns with prohibitions in DOJ's interim policy related to either: (1) DOJ's determination that BWC footage would be considered a federal record, or (2) restrictions on using BWCs interjurisdictionally, meaning BWCs could not be used on operations that might take place, even in part, in an area outside the partner agency's locally established area of responsibility.

The use of BWC in DOJ operations by the four participating cities as part of the pilot program began in January 2020 (dates differ for each component depending on when pilot city addendums were finalized) and ended on September 1, 2020.<sup>21</sup> The four participating cities reported varying degrees of BWC use, as shown below.

**Figure 4**

**Total Number of Operations In Which BWCs Were Used During DOJ’s TFO Pilot Program**

| Partner Agency Component | Detroit | Houston | Salt Lake City | Wichita |
|--------------------------|---------|---------|----------------|---------|
| ATF                      | 23      | 0       | -              | 4       |
| DEA                      | 0       | 0       | 5              | 3       |
| FBI                      | 30      | 14      | 0              | 1       |
| USMS                     | 29      | 29      | -              | 8       |

<sup>a</sup> A “0” indicates that an agreement was executed, but that no BWC use was reported. A dash indicates that the listed component did not execute an MOU with the listed city as there was no established task force in that city.

<sup>b</sup> Detroit withdrew from all DEA task forces for reasons unrelated to the BWC program.

<sup>c</sup> Each operation may include more than one task force officer utilizing a BWC.

<sup>d</sup> Component participation in DOJ’s pilot program was based on task force partnerships in selected cities, meaning that not all components initiated a BWC program in each city.

We believe DOJ’s pilot program was generally successful, and the limited participation as reflected in Figure 6 may be due, in part, to the COVID-19 pandemic, which began shortly after the pilot program commenced. Indeed, in January 2021, the OIG released [the results of a survey](#) that measured the effects of the COVID-19 pandemic on ATF, DEA, FBI, USAO, and USMS Investigative Operations.<sup>22</sup> The OIG’s survey found, among other things, that “respondents believe that federal law enforcement operations have been affected by COVID-19, with nearly two-thirds of all respondents noting that COVID-19 has affected their ability to work their cases.” The ability of state and local law enforcement agencies to participate on federal task forces was cited as a primary concern of Component officials.

**DOJ Issuance of its New Task Force BWC Policy**

Despite the limited participation in the pilot program, representatives with the partner agencies that we spoke with were generally satisfied with the results of the pilot program. On October 29, 2020, the Attorney General noted that after assessing the results of the pilot program and taking into account the interests and priorities of all involved law enforcement agencies, DOJ would permit the use of BWC on federal task forces in specific circumstances. This statement accompanied the issuance of DOJ’s final TFO BWC policy, which

<sup>21</sup> While September 1, 2020, marked the official end of the pilot program, the Components have allowed continued use of BWCs by participating agencies.

<sup>22</sup> DOJ OIG, “[Effects of COVID-19 on ATF, DEA, FBI, USAO, and USMS Investigative Operations](#)” January 5, 2021, <https://experience.arcgis.com/experience/891259547d994573a314acf7927ac6c4> (accessed February 9, 2021).

substantially amended the prohibition on interjurisdictional use of BWCs by allowing TFOs to utilize BWCs anywhere within their own state. As our analysis in this area indicated, the initial prohibition on interjurisdiction use had a significant impact on BWC use. For example, DEA conducted 13 qualifying task force operations in Houston during the pilot, but BWC use during those operations was prohibited in all 13 operations because they were interjurisdictional. We believe that removal of the interjurisdictional prohibition is likely to significantly increase BWC use on task force operations in the future, and representatives we spoke with from police departments that participated in the pilot program expressed support for the modification.

With regard to federal records policy, the DOJ's final TFO BWC policy continued to deem BWC footage to be federal records whose ownership and release would be controlled by DOJ. During negotiations in the fall of 2019 prior to the issuance of the final policy, multiple pilot cities raised concerns about this provision, noting that such a policy potentially conflicted with state law and could affect the ability of local law enforcement to release footage in high profile incidents, with the one police department specifically noting that the lack of release could create a public safety or civil unrest issue. DOJ sought to address these concerns in the final policy by adding language allowing for expedited public release, when certain conditions are met, of TFO BWC recordings that depicted conduct committed solely by a task force officer resulting in serious bodily injury or death of another.

DOJ officials told us that, based on the nature of federal task force operations and federal records law, they do not anticipate this part of the policy being further modified or removed. We further were told that DOJ worked to address local concerns during the pilot program through communication with law enforcement organizations such as the Major Cities Chiefs Association, the International Association of Chiefs of Police, and the National Organization of Black Law Enforcement Executives to better explain the federal records provision. Additionally, representatives from ODAG told us that DOJ's BWC working group intends to continue meeting on a regular basis to monitor progress in onboarding new partner agencies.<sup>23</sup>

The OIG did not audit DOJ's adherence to its expedited public release policy because no task force operations during the pilot program involved or recorded the use of deadly force or serious bodily injury. We believe DOJ should be prepared to consider input from participants as the task force BWC program expands and to promptly address any issues that arise from the federal records requirement, especially in instances involving the use of deadly force or serious bodily injury.

### **Agencies Added to the TFO BWC Program since Finalization of the DOJ Policy**

Subsequent to finalization of the DOJ task force BWC policy, we contacted the Components to assess the extent to which DOJ had expanded participation in the TFO BWC program. In its October 29, 2020 announcement, DOJ's Office of Public Affairs [noted that](#) "Due to the large number of state and local agencies nationwide that may like to participate, federal agencies may establish a graduated process to onboard partner agencies to the body-worn camera program. This will ensure an orderly and coordinated process to

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<sup>23</sup> In May 2021, ATF reported that since the TFO BWC policy was implemented, many partner agencies continue to voice concerns and are reluctant to sign the TFO BWC MOU addendum for various reasons, oftentimes citing state laws that directly conflict with the newly implemented DOJ TFO BWC Policy. ATF stated that while the components are making every attempt to work with the partner agencies to resolve these issues, in some jurisdictions, the participation of federal TFOs may be in jeopardy.

deal with the technical, training, and operational considerations involved in establishing a large-scale body-worn camera program.”<sup>24</sup> As of May 2021, we found that the FBI had executed addendums to existing memorandums of understanding with 11 additional organizations to permit the use of BWCs on task force operations, ATF had executed 3 addendums, and USMS had executed addendums with 4 additional organizations, and DEA had executed an addendum with one organization.

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<sup>24</sup> DOJ Office of Public Affairs, Press Release, “[Department of Justice Announces the Use of Body-Worn Cameras on Federal Task Forces](https://www.justice.gov/opa/pr/department-justice-announces-use-body-worn-cameras-federal-task-forces),” October 29, 2020, <https://www.justice.gov/opa/pr/department-justice-announces-use-body-worn-cameras-federal-task-forces> (accessed May 6, 2021).

## Conclusion and Recommendations

BWCs have become a staple for many law enforcement organizations across the country. A well designed and implemented BWC program can enhance transparency and accountability by ensuring objective video evidence is available for encounters in which federal LEOs engage in the use of force, particularly in cases involving the injury or death of a member of the public. Such evidence is also useful to investigative and prosecutorial efforts involving those who injure or kill Component LEOs, who regularly put their lives on the line when making arrests, executing search warrants, or responding to dangerous events.

As an OJP survey found, by 2016, the use of BWCs by large state and local law enforcement agencies was widespread. Further, on February 24, 2021, the JPA was reintroduced in Congress and on March 3, 2021, it was again passed in the House. The bill was referred to the Senate on March 9, 2021, where it remains as of May 2021. If passed, the JPA would require, for the first time, federal LEOs to utilize BWCs during certain operations.

Over the course of our audit, we found that the Components were generally unprepared to implement BWC programs if required. In February 2021, we provided a summary of our concerns to the Acting Attorney General (AAG), and in May 2021 we provided a draft copy of this report to DOJ and the Components for review. ODAG officials reported that, in early February 2021, the Department discussed the next steps to include formulating recommendations on the specifics of a BWC policy, a phased implementation, and a plan to purchase cameras and store footage. ODAG officials further stated that its working group met regularly to consider issues surrounding a BWC policy, and has met with JMD to discuss detailed cost estimates to implement a BWC program, including a single contract involving multiple components, and to begin designing evaluation metrics that can be used to measure the impact of the DOJ agent BWC policy. Work in this area is ongoing. On June 7, 2021, DOJ issued a directive requiring the Components to develop, within 30 days, BWC policies that would require DOJ LEOs to use BWCs on certain operations. Again, the OIG has not audited these policies as policy development was ongoing. Further, we identified several areas in which DOJ should provide guidance to ensure Component BWC programs are implemented consistently and with a focus on transparency. To this end, we make three recommendations to DOJ to assist as it reassesses its lack of BWC programs for DOJ LEOs.

We recommend that DOJ:

1. Carefully reassess the lack of BWC usage by DOJ Components and pursue actions that would prepare DOJ for program implementation. This assessment should begin by determining the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations, and using that determination, developing a forecast of costs associated with equipment purchases, video storage, and other resources, such as staffing.
2. Coordinate with the Components to identify other cross-cutting policy issues and promulgate policy that would allow the Components to develop and implement their own BWC programs.
3. Coordinate with the Components, and any other DOJ agencies to whom a BWC program may apply, to assess the suitability of a single contract involving either multiple DOJ components or multiple federal agencies so as to leverage the purchasing power of the federal government to ensure maximum cost savings.

# APPENDIX 1: Objectives, Scope, and Methodology

## Objectives

Our objectives were to: (1) review and assess the current Department of Justice (Department or DOJ) body worn camera (BWC) policy for DOJ law enforcement officers (LEOs), (2) evaluate the extent to which BWCs were utilized during the Department's task force pilot program, and (3) assess any plans to expand the use of BWCs among DOJ LEOs and federally deputized task force participants. Our audit included four DOJ agencies: the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the United States Marshals Service (USMS), referred to collectively as "the Components."

## Scope and Methodology

In conducting our audit, we reviewed and tested what we consider to be the most important aspects of: (1) DOJ's process to prepare for and implement a BWC program for its law enforcement personnel, and (2) DOJ's BWC task force officer (TFO) pilot program. Our audit generally covered, but was not limited to, DOJ's BWC-related activities between October 2019, when DOJ's BWC pilot program was announced, and January 2021.

To accomplish our objectives, we interviewed officials in the ATF, DEA, FBI, USMS, ODAG; reviewed current and pending policies and procedures for each of the Components; audited data related to use of BWCs during DOJ's TFO BWC pilot program; interviewed officials with police departments that participated in DOJ's TFO BWC pilot program; analyzed 3 years' worth of firearm and use-of-force complaints submitted by DOJ components to the OIG; reviewed high-profile use-of-force incidents for which the use of BWC may have assisted law enforcement or prosecutorial efforts; reviewed pending legislation that relates to the use of BWCs by federal LEOs; analyzed studies and reviews regarding BWC program best practices, benefits, and challenges; reviewed the use of BWCs among other law enforcement entities within the federal government; and gathered and reviewed data from OJP's BWC-related grant award programs.

## Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Internal Controls

In this audit we performed testing, as appropriate, of internal controls significant within the context of our audit objectives. A deficiency in internal control design exists when a necessary control is missing or is not properly designed so that even if the control operates as designed, the control objective would not be met. A deficiency in implementation exists when a control is properly designed but not implemented correctly in the internal control system. A deficiency in operational effectiveness exists when a properly designed control does not operate as designed or the person performing the control does not have the necessary competence or authority to perform the control effectively. We did not evaluate the internal controls of the

Components to provide assurance on its internal control structure as a whole. Component management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on the Components' internal control structure as a whole, we offer this statement solely for the information and use of the Components.<sup>25</sup>

In planning and performing our audit, we identified the following internal control components and underlying internal control principles as significant to the audit objectives:

| Internal Control Components & Principles Significant to the Audit Objectives  |
|---|
| <b>Risk Assessment Principles</b>   |
| Management should define objectives clearly to enable the identification of risks and define risk tolerances.                       |
| Management should identify, analyze, and respond to risks related to achieving the defined objectives.                              |
| <b>Control Activity Principles</b>  |
| Management should design control activities to achieve objectives and respond to risks.   |
| Management should design the entity's information system and related control activities to achieve objectives and respond to risks. |
| Management should implement control activities through policies.  |
| <b>Information &amp; Communication Principles</b>   |
| Management should use quality information to achieve the entity's objectives.   |
| Management should internally communicate the necessary quality information to achieve the entity's objectives.                      |
| Management should externally communicate the necessary quality information to achieve the entity's objectives.                      |
| <b>Monitoring Principles</b>  |
| Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.      |

We assessed the design of these internal controls and we did not identify any deficiencies for existing policies at the time of our audit that we believe could affect the Components' ability to ensure compliance with laws and regulations. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

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<sup>25</sup> This restriction is not intended to limit the distribution of this report, which is a matter of public record.

### **Computer Processed Data**

During our audit, we obtained information from the Office of Justice Program's (OJP) Grants Management System (GMS); OJP's Grants and Funding website; Office of Inspector General (OIG) Investigations Division, Fraud Detection Office, Investigations Data Management System (IDMS); and other publicly available grant award information. While we did not test the reliability of these systems as a whole, we queried GMS and the Funding Website for OJP grants related to BWCs, and we reviewed and summarized data from the IDMS as part of our audit. Although we used data from these sources to describe OJP's funding of BWC programs and the number of shooting incidents involving Component agents, no findings relied exclusively upon the data obtained.

# APPENDIX 2: Memorandum to the Acting Attorney General and Acting Deputy Attorney General



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

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February 22, 2021

Memorandum For: Monty Wilkinson  
Acting Attorney General

John Carlin  
Acting Deputy Attorney General

From:   
Inspector General

Subject: Audit of the Department of Justice Policy on Body Worn Cameras

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The Department of Justice (DOJ) Office of the Inspector General is conducting an audit of DOJ's policy on body worn cameras (BWC).<sup>1</sup> In the past decade, DOJ has studied, supported, and promoted the use of BWCs through the Office of Justice Programs (OJP), which has provided over \$115 million to state, local, and tribal law enforcement agencies to create or enhance their BWC programs. However, DOJ does not have a policy covering BWCs for federal law enforcement officers (LEOs), and the components we are auditing – the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); and the United States Marshals Service (USMS), referred to as the Components – have not taken significant steps to prepare for or implement BWC programs for federal LEOs.<sup>2</sup> Some Department officials have cited the difference between the federal mission and that of state and local law enforcement as a reason BWC programs have not been implemented. However, in Fiscal Year 2019 alone the USMS arrested 90,239 fugitives, which could be considered planned arrests for which DOJ generally permits the use of BWCs by task force officers. Additionally, in our review of data reported by the Components to the OIG, we identified 121 instances between Fiscal Years 2018 and 2020 in which federal

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<sup>1</sup> Our preliminary objectives are to: (1) review and assess the Department's current body worn camera policy for federal law enforcement officers, (2) evaluate the extent to which body worn cameras were utilized during the Department's task force pilot program, and (3) assess any plans to expand the use of body worn cameras among federal law enforcement officers and federally deputized task force participants. It should be noted that while Congress introduced legislation that would expand BWC use by federal LEOs, the Components have not been directed to implement BWC programs by DOJ or Congress. Our audit work is ongoing and the preliminary results presented in this memo are subject to change based on completion of our quality assurance process and additional actions taken by the Components.

<sup>2</sup> Due to the difference in mission, the Federal Bureau of Prisons (BOP) was not included as part of this audit. However, we note that the BOP has a policy to record use of force incidents with video cameras.

law enforcement officers discharged their weapons in shooting events involving a member of the public (“event” meaning more than one shot may have been fired). Of that total, we determined that at least 107 events occurred during the execution of an arrest warrant, other planned arrest, or search warrant, circumstances which, as previously noted, DOJ generally permits BWC use on task force operations.

To date, our audit has found that progress towards implementing a BWC program for DOJ LEOs has been limited even in basic areas such as assessing: (1) the number of LEOs and type of operations to which a BWC program would apply; (2) the model of BWC and associated equipment and storage that would be required; (3) the need for policies and procedures that would govern a BWC program; (4) other needs, such as additional staff to assist with program implementation. To move forward, guidance from DOJ may be necessary. For example, while FBI drafted Standard Operating Procedures for Special Agent use of BWC under certain circumstances, and FBI, DEA and ATF have taken steps to obtain BWC pricing, the Components have told the OIG that they do not intend to implement a BWC program without direction and guidance from DOJ or Congress.<sup>3</sup> Additionally, we have been told that funding will be necessary to procure the equipment, store the video evidence, and provide additional resources. Cost estimates vary significantly, particularly given the unknown factors discussed above, though comprehensive cost calculators funded through DOJ grant programs [are available online](#). DOJ may benefit from assessing the extent to which a single contract involving either multiple DOJ components or multiple federal agencies would assist in utilizing the federal government’s purchase power to maximize cost savings.

DOJ also may benefit from proactively working with Congress to assess the extent to which proposed legislation may impact cost and agency operations. For example, proposed legislation requires that video stemming from any BWC activation, including those without the use of force or firearm discharge, must be retained for 6 months, and videos with a firearm discharge or use of force must be retained for a minimum of 3 years. Given the [90,239 USMS arrests in FY 2019 referenced above](#) and that each arrest may involve multiple LEOs, legislatively-mandated retention requirements affecting the storage of BWC recordings may significantly increase program costs.

In December 2020 we briefed the Components on the preliminary findings of our audit. This briefing outlined certain actions for DOJ and the Components to consider in researching, preparing, and implementing a BWC program for DOJ LEOs. We also provided a draft copy of this memorandum to the Components for review and comment and their comments have been incorporated, where applicable. We anticipate completing our audit in spring 2021.

cc: Anita Singh  
Deputy Chief of Staff to the Attorney General

Kate Heinzelman  
Chief of Staff to the Deputy Attorney General

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<sup>3</sup> DEA stated that this is because “myriad policy, implementation, and funding issues cannot be resolved unilaterally by individual DOJ components.” Further, DEA noted that as of February 2021 it has secured funding and the required authority to test a cloud-based video storage system. Previously, for the DOJ’s task force officer BWC pilot program, DEA stored BWC video on discs.

Bradley Weinsheimer  
Associate Deputy Attorney General

Adam Braverman  
Associate Deputy Attorney General

Adam Pallotto  
Audit Liaison  
Bureau of Alcohol, Tobacco, Firearms, and Explosives

Celinez Nunez  
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Alan Hanson  
Director of the Appropriations Liaison Office

Nikita Purdy  
DOJ Appropriations Liaison  
Justice Management Division

Daniel Lucas  
DOJ Appropriations Liaison  
Justice Management Division

# APPENDIX 3: Memorandum from the Deputy Attorney General



U.S. Department of Justice  
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530  
June 7, 2021

MEMORANDUM FOR      ACTING DIRECTOR, BUREAU OF ALCOHOL, TOBACCO,  
   FIREARMS & EXPLOSIVES  
   ACTING ADMINISTRATOR, DRUG ENFORCEMENT  
   ADMINISTRATION  
   DIRECTOR, FEDERAL BUREAU OF INVESTIGATION  
   DIRECTOR, UNITED STATES MARSHALS SERVICE  
   ASSISTANT ATTORNEY GENERAL FOR  
   ADMINISTRATION  
   EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

FROM:                              THE DEPUTY ATTORNEY GENERAL *Lisa Monaco*

SUBJECT:                              BODY-WORN CAMERA POLICY

The Department of Justice recognizes that transparency and accountability in law enforcement operations build trust with the communities we serve. Although the Department's law enforcement components do not regularly conduct patrols or routinely engage with the public in response to emergency calls, there are circumstances where the Department's agents encounter the public during pre-planned law enforcement operations. The Department is committed to the use of body-worn cameras (BWCs) by the Department's law enforcement agents in such circumstances.

In October 2020, the Department announced a policy that permits state and local officers on Department of Justice Task Forces to wear and activate BWCs when the use of force is possible – while serving arrest warrants, executing other planned arrest operations, and during the execution of search warrants. Today, based on recommendations from the Department's law enforcement components, I am directing the Acting Director of the Bureau of Alcohol, Tobacco, Firearms & Explosives; the Acting Administrator of the Drug Enforcement Administration; the Director of the Federal Bureau of Investigation, and the Director of the United States Marshals Service to develop and submit for review, within 30 days, component BWC policies that require 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.

Each law enforcement component shall develop its policy and a phased implementation plan for compliance with the above directive no later than 30 days from the date of this memorandum, and shall designate a senior official with responsibility for implementation and oversight of its BWC policy. Each component also shall ensure immediately that partners serving on DOJ-sponsored task forces are aware of the current Department policy that permits state and local officers on DOJ task forces to wear and activate BWCs.

Each component's BWC policy shall include:

- the responsibilities for Department agents to carry, operate, maintain, and secure the equipment, including when to activate and deactivate BWCs;
- the type(s) of BWC equipment authorized for use;
- the duration of time and scope of the BWC footage preserved prior to its activation (i.e., buffering period);
- specialized or sensitive investigative techniques or equipment that may require different treatment under the BWC policy;
- procedures governing the collection, storage, access, retention, use, and dissemination of BWC recordings, consistent with applicable federal laws;
- procedures governing the use of BWCs by all members of Department-sponsored task forces; and
- procedures for the expedited public release of recordings in cases involving serious bodily injury or death.

In addition, as soon as practicable, each component shall:

- submit for the approval of the Department's Chief Privacy and Civil Liberties Officer a Privacy Impact Assessment of the component's planned use of BWCs and associated equipment prior to implementation of its BWC policy, and a plan for annual privacy reviews;
- consult with the Office of Records Management to ensure the component's BWC policy is fully compliant with all records-related laws, regulations, rules, policies, and guidance;
- work with the Justice Management Division to assess resource requirements to fully implement its BWC policy and build upon the resources allocated to the Department to support BWC usage in FY22; and
- design evaluation metrics that can be used to measure the impact of its BWC policy.

Memorandum from the Deputy Attorney General  
Subject: Body-Worn Camera Policy

Page 3

Finally, within 90 days, the Executive Office for U.S. Attorneys should develop training for prosecutors regarding the use of BWC recordings as evidence, building on existing trainings related to the discovery implications of these recordings.

I am proud of the job performed by the Department's law enforcement agents, and I am confident that these policies will continue to engender the trust and confidence of the American people in the work of the Department of Justice.

# APPENDIX 4: The Department of Justice's Response to the Draft Audit Report



U.S. Department of Justice

Office of the Deputy Attorney General

*Bradley Weinsheimer*  
Associate Deputy Attorney General

*Washington, D.C. 20530*

## MEMORANDUM

**TO:** Jason R. Malmstrom  
Assistant Inspector General for Audit  
Audit Division  
Office of the Inspector General

**FROM:** Bradley Weinsheimer *Bradley Weinsheimer*  
Associate Deputy Attorney General  
Office of the Deputy Attorney General

**DATE:** June 18, 2021

**SUBJECT:** Response to OIG's Draft Report: "Audit of the Department of Justice Policy on Body Worn Cameras"

The Office of the Deputy Attorney General (ODAG) appreciates the review undertaken by the Office of the Inspector General (OIG) and the opportunity to comment on OIG's draft report, "Audit of the Department of Justice Policy on Body Worn Cameras" (the "Report"). As you know, the Department began examining the use of body-worn cameras by federally deputized task force officers (TFOs) two years ago and has been assessing their use by Department of Justice (DOJ or Department) agents since July 2020. This work has entailed extensive coordination with Department law enforcement components to identify cross-cutting policy issues, as well as work with the Justice Management Division (JMD) to assess and forecast costs associated with body-worn camera usage. This work culminated in a memorandum issued by the Deputy Attorney General on June 7, 2021, announcing the Department's commitment to DOJ agents wearing body-worn cameras in law enforcement operations.

The Report sets forth three recommendations to the Department. As set forth below, the Department concurs with each of the recommendations.

- 1. Carefully reassess the lack of BWC usage by DOJ Components and pursue actions that would prepare DOJ for program implementation. This assessment should begin by determining the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations, and using that determination, developing a forecast of**

**costs associated with equipment purchases, video storage, and other resources, such as staffing.**

The Department concurs with this recommendation. The Department has been committed to enacting a Body-Worn Camera (BWC) policy that provides transparency to our law enforcement operations and has been examining this issue for over two years. In May 2019, ODAG began working with DOJ law enforcement components to address the use of BWCs on Department-sponsored task forces. ODAG formed an internal working group comprised of senior leadership of each of the law enforcement components to determine whether DOJ should have a Department-wide policy on the use of BWCs. Throughout the summer of 2019, the DOJ working group met numerous times and incorporated input from stakeholders. The working group also met with Major Cities Chiefs Association, International Association of Chiefs of Police, Major County Sheriffs of America, National Sheriffs' Association, and the National Organization of Black Law Enforcement Executives to solicit their input. The working group also met with various internal components to discuss the cross-cutting policy implications of the Privacy Act, the Federal Records Act, and the Freedom of Information Act (and has continued to do so throughout this process).

After considering all of these views, on October 28, 2019, the Department announced a pilot program in Houston, Texas; Detroit, Michigan; Wichita, Kansas; Salt Lake City, Utah and Park City, Utah. The pilot program was extended due to the effect of COVID-19 on task force operations and successfully concluded on September 1, 2020. Upon evaluating the results of the pilot program and considering input from various stakeholders, the Department announced a new policy on October 29, 2020, that permits TFOs to use BWCs. On December 7, 2020, the Department held a nationwide web-based training program for United States Attorneys' Offices on the discovery and logistical implications of the new TFO body-worn camera policy.

As we explained to the OIG during the audit, the Department intended to address the use of BWCs by TFOs first and then turn to their use by DOJ agents. To that end, in late July 2020, as the TFO pilot was nearing completion, ODAG asked the components to begin examining the application of BWCs to DOJ agents. Beginning in August 2020, the working group met to discuss component input on the application of BWCs to DOJ agents as well as cost estimates to equip their agents with BWCs.

In early February 2021, the Department discussed the next steps to include formulating recommendations on the specifics of a BWC policy, a phased implementation, and a plan to purchase cameras and store footage. Since February, the working group has been meeting regularly to consider issues surrounding a BWC Policy and has met with JMD to discuss detailed cost estimates to implement this program including a single contract involving multiple components and to begin designing evaluation metrics that can be used to measure the impact of the DOJ agent BWC policy.

On June 7, 2021, Deputy Attorney General Monaco announced, based on the recommendations of the DOJ law enforcement components, the Department's commitment to DOJ agents wearing body-worn cameras in law enforcement operations. Within the next 30 days, the Bureau of Alcohol, Tobacco, Firearms & Explosives; Drug Enforcement Administration; the Federal Bureau of Investigation, and the United States Marshals Service will submit policies and implementation plans to phase in the use of these cameras. The Deputy Attorney General's memorandum explained that agents will be required 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. The Department will also seek funding from Congress to implement this plan nationwide.

**2. Coordinate with the Components to identify other cross-cutting policy issues and promulgate policy that would allow the Components to develop and implement their own BWC programs.**

As described above, the Department has been, and will continue to pursuant to the Deputy Attorney General's June 7, 2021 memorandum, coordinate with the law enforcement components to identify other cross-cutting policy issues and promulgate policy that would allow the components to develop and implement their own BWC programs.

**3. Coordinate with the Components, and any other DOJ agencies to whom a BWC program may apply, to assess the suitability of a single contract involving either multiple DOJ components or multiple federal agencies so as to leverage the purchasing power of the federal government to ensure maximum cost savings.**

As described above, the Department has been and will continue to coordinate with the law enforcement components, and any other DOJ agencies to whom a BWC program may apply, to assess the suitability of a single contract involving either multiple DOJ components or multiple federal agencies so as to leverage the purchasing power of the federal government to ensure maximum cost savings.

## **APPENDIX 5: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Report**

The OIG provided a draft of this audit report to DOJ and the Components. The Department's response is incorporated as Appendix 4 of this final report. In response to our draft audit report, the Department concurred with our recommendations and discussed the actions it will implement in response to our findings. As a result, the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

### **Recommendations for DOJ:**

- 1. Carefully reassess the lack of BWC usage by DOJ Components and pursue actions that would prepare DOJ for program implementation. This assessment should begin by determining the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations, and using that determination, developing a forecast of costs associated with equipment purchases, video storage, and other resources, such as staffing.**

Resolved. The Department concurred with our recommendation. In its response, the Department summarized the actions it has undertaken in the past 2 years. These actions included the development and implementation of a BWC program for DOJ task forces. Additionally, Department officials stated that its working group began meeting in August 2020 to discuss input from the Components on the application of BWCs for DOJ LEOs as well as cost estimates for a BWC program. Department officials also stated that the working group has been meeting regularly to consider issues surrounding a BWC policy and has met with DOJ's Justice Management Division to discuss detailed cost estimates to implement a BWC program, including a single contract involving multiple components, and to begin designing evaluation metrics that can be used to measure the impact of DOJ BWC policy.

On June 7, 2021, the Deputy Attorney General (DAG) issued a directive requiring the Components to submit policies and implementation plans to phase in the use of BWCs by DOJ LEOs. Department officials stated that DOJ LEOs will be required 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; and (2) the execution of a search or seizure warrant or order. The Department further stated that it will seek funding from Congress to implement this plan nationwide.

The DAG's directive to the Components demonstrates that DOJ has taken steps to determine the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations. However, as policy development was underway at the time DOJ submitted its response, the OIG has not reviewed Component policies. This recommendation can be closed when we receive evidence that DOJ has completed its assessment to determine: (1) the type of operations for which BWCs should be required for DOJ LEOs on DOJ operations, (2) has developed a forecast of costs associated with equipment purchases, video storage, and other resources, such as staffing.

- 2. Coordinate with the Components to identify other cross-cutting policy issues and promulgate policy that would allow the Components to develop and implement their own BWC programs.**

Resolved. The Department concurred with our recommendation. In its response, ODAG officials stated that the Department has been, and will continue to coordinate with the Components to identify other cross-cutting policy issues and promulgate policy that will allow the components to develop and implement BWC programs.

This recommendation can be closed when we receive evidence that, with DOJ's direction, the Components have developed and implemented BWC policies for DOJ LEOs.

- 3. Coordinate with the Components, and any other DOJ agencies to whom a BWC program may apply, to assess the suitability of a single contract involving either multiple DOJ components or multiple federal agencies so as to leverage the purchasing power of the federal government to ensure maximum cost savings.**

Resolved. The Department concurred with our recommendation. In its response, ODAG officials stated that the Department has been and will continue to coordinate with the Components, and any other agencies to whom a BWC program may apply to assess single contract options.

This recommendation can be closed when we receive evidence that the Department has completed its review of contract options that may leverage the purchasing power of the federal government to ensure maximum cost savings.