



Moving Forward: A New DHS Policy on Body-Worn Cameras (BWCs)

Overview

The U.S. Department of Homeland Security (DHS) [announced](#) on May 23, 2023 its first [Department-wide policy](#) on body-worn cameras (BWCs). The policy includes a phased, nationwide implementation of BWCs for the Department's officers and agents, pending the necessary funding from Congress to purchase and maintain the equipment. The policy also establishes certain requirements and guidelines for the use of BWCs. While some DHS agencies and offices already have deployed BWCs, this policy represents the first and most extensive effort to provide camera equipment to DHS enforcement personnel and establish agency-specific policies, procedures, and trainings. The policy comes in response to an [executive order](#) signed by President Biden in 2022 to advance public safety and accountable policing.

DHS is one of the largest law enforcement institutions in the world, with [nearly 80,000](#) officers and agents working within the Department's nine operational law enforcement agencies. This includes U.S. Customs and Border Protection (CBP), the largest law enforcement agency in the United States with [more than 60,000](#) employees, and U.S. Immigration and Customs Enforcement (ICE), with 20,000 officers and support personnel. Incorporating BWCs for all DHS officers and agents has gained momentum in recent years, with Congress and multiple presidential administrations increasingly touting the benefits BWCs to protect law enforcement personnel and the communities they work with.

This paper examines the potential benefits of implementing BWCs throughout the Department, summarizes the new DHS policy on BWCs, and provides an overview of funding needs and current BWC use at CBP and ICE.

Benefits of Body-Worn Cameras

The implementation of body-worn cameras (BWCs) across DHS' nine operational law enforcement agencies, primarily CBP and ICE, would be an important step towards improving the relationship between DHS officers and agents, immigrant communities, and other members of the public. DHS agencies [face challenges](#) related to accountability and building trust.

Previously, in a 2015 report co-authored by former Law Enforcement Immigration Task Force (LEITF) co-chair Chief James Lopez (retired), the National Immigration Forum [identified](#) several benefits that would result from implementing BWCs across CBP. While the 2015 report focused on CBP, these benefits would likely extend across other immigration and DHS law enforcement agencies.

- **Transparency and Accountability.** BWCs instill confidence that law enforcement incidents can be investigated fairly. When law enforcement personnel engage in misconduct during encounters with the public, BWCs create a record of that activity that can be shared with the public. Similarly, when law enforcement personnel face exaggerated or false allegations of misconduct, BWC footage can be shared with the public to dispel such accusations of wrongdoing. As noted in a [joint report](#) by the U.S. Department of Justice (DOJ) and the Police Executive Research Forum (PERF), BWCs help “promote the perceived legitimacy and sense of procedural justice that communities have about their police departments.” This increases transparency and accountability between law enforcement agencies and the communities they work with.
- **BWC Evidence Leading to Speedy Resolutions.** Related to the increase in transparency described above, the use of BWCs can lead to quicker resolution when officers or agents are accused of wrongdoing. Video footage can be used as evidence and save law enforcement personnel and their agencies time in responding to incidents and civilian complaints.
- **Reducing Use-of-Force Incidents and Complaints.** Studies have found that use-of-force incidents and civilian complaints drop with the use of BWCs. In 2014-2015, a [study](#) of the Orlando Police Department’s BWC pilot program found that use-of force incidents dropped 53 percent and civilian complaints against those officers dropped 65 percent. Evidence [suggests](#) that body-worn cameras decrease assaults on officers as well. BWCs encourage law enforcement personnel and the civilians they interact with to remain on their best behavior.
- **Scenario-Based Training.** BWCs help improve the training of officers and agents by providing examples of real-life scenarios they may encounter and best practices in responding to certain situations. Many law enforcement agencies [note](#) that BWCs allowed them to identify potential weaknesses within their agencies and to develop solutions for improvement, such as creating new training programs or revising departmental policies and protocols.

The report concluded, “To assist the dedicated CBP agents who work every day to keep our nation’s border secure, our elected officials and policymakers must look seriously at how to adopt body-worn cameras at CBP. The many potential benefits to the agency include increasing officer accountability and public safety, increasing transparency and rebuilding public confidence, all of which will make CBP more effective.”

This calculus remains relevant today particularly for CBP as former Pharr, Texas Police Chief Andy Harvey has stated: “CBP’s mission is vital for national security. Introducing body-worn cameras enhances trust in our agents, showcases their professionalism while performing in challenging situations, and safeguards them from baseless complaints. It’s a win-win for transparency and confidence in our border protection efforts.”

DHS Policy on Body-Worn Cameras

The “[Department Policy on Body Worn Cameras](#),” issued by DHS Secretary Alejandro Mayorkas on May 22, 2023, one day before the public announcement, sets department-wide standards and guidelines for the use of body-worn cameras (BWCs), which include CBP and ICE. The policy requires DHS law enforcement agencies to issue or update their BWCs policies within 180 days and establishes minimum requirements for the use of BWCs, law enforcement responsibilities,

and the handling of BWC data. Specifically, the policy sets forth the following Department-wide requirements:

Agency Policies

- Within 180 days, DHS agencies, including CBP and ICE, must draft and issue, or in some cases update, their BWC policies so that they “meet or exceed the requirements set forth in the Department-wide policy.”
- Implementation of the DHS and agency-specific policies on BWCs would be contingent on resources available and the agency’s deployment plan.

Use of BWCs

- BWCs must be used to record DHS agents’ and officers’ interactions with the public:
 - When conducting patrols or when they are engaged with the public in response to emergency calls.
 - During pre-planned attempts to serve an arrest warrant or other pre-planned arrests.
 - During the execution of a search or seizure warrant or order.
- BWCs must not be used:
 - For the sole purpose of recording individuals engaged in activity protected by the First Amendment.
 - In a courtroom during proceedings, hospital or medical facility, or any location where there is a reasonable expectation of privacy.
 - For recording undercover personnel.
 - For conducting or supporting a personnel investigation or disciplinary action.
 - For recording a particular individual or group of individuals based solely on their race, color, religion, national origin, sex, age, and/or other considerations.
 - For recording an activity where doing so places the officer or others in a situation that could result in physical injury.

Privacy Compliance

- DHS agencies must ensure that their BWC programs are in full compliance with DHS privacy policies, that BWC data is addressed in record retention policies, and there are procedures to efficiently respond to Privacy Act and Freedom of Information Act (FIOA) requests.

Training

- Personnel who operate or support the use of BWCs must receive all the required training by their agency prior to their authorization to use BWCs or access BWC data, including training on the following:
 - BWC operation, maintenance, and care.
 - Correct handling, storage, use, and dissemination of BWC data.
 - Privacy compliance and proper privacy and FOIA policy procedures.
 - Understanding when use of BWCs is required, optional, and/or non-permissible.
 - Laws, regulations, and policies governing the use of BWCs.
 - Civil rights and civil liberties considerations, in consultation with the DHS Office for Civil Rights and Civil Liberties (CRCL).

Responsibilities for Law Enforcement Officers

- DHS officers and agents are responsible for:
 - Activating and deactivating BWCs as directed by agency policies.
 - Properly operating and maintaining BWC equipment.
 - Using only DHS or agency-issued and approved BWC equipment.
 - Not intentionally tampering with or dismantling a BWC or its hardware or software.
 - Ensuring that they upload data at the end of each shift or as soon as feasible thereafter.
 - Advising individuals as soon as practicable that they are being recorded, with some exceptions related to safety concerns.

Use and Handling of BWC Data

- DHS must adhere to the following guidelines regarding the use and handling of BWC data:
 - BWC data may only be accessed, downloaded, shared, and/or disclosed by authorized DHS personnel for certain authorized purposes, including to:
 - Complete investigations and prepare related reports.
 - Support the discovery process in litigation.
 - Prepare for testimony before a grand jury or other court-related proceedings.
 - Aid in training.
 - Evaluate claims of misconduct or other violations.

- DHS personnel must state in incident reports whether BWC recordings were viewed prior to completing the reports in question. Unless otherwise prohibited by the DHS agency that employs them, authorized BWC users may review all available BWC recorded data that is relevant to the report.
- DHS personnel may not intentionally delete or modify BWC recorded data and may only dispose of recorded data as permitted by each individual DHS agency's National Archives and Records Administration (NARA) schedule and in compliance with FOIA requests and litigation holds.
- BWC recorded data may only be stored in authorized DHS data systems.
- BWCs must be configured to automatically start buffering and record at least 30 seconds of video prior to the camera's activation.
- Requests for data from the public, Congress, and media outlets must be processed according to each individual DHS agency's BWC policy. Agencies must develop a process for the expedited public release of BWC recordings following incidents involving serious bodily injury and deaths in custody.

Funding and Implementation

The DHS policy is ambitious. It aims to equip the Department's officers and agents with BWCs nationwide, which will require significant resources to implement. Given the cost of creating and maintaining BWCs on such a large scale, success of the policy, particularly for CBP and ICE, is largely dependent on obtaining adequate funding from Congress. If Congress is unwilling or unable to provide such funding, nationwide implementation of the BWC policy will be delayed or potentially abandoned.

In announcing the new BWC policy, DHS [stated](#) that it would work with Congress to secure the necessary funding to ensure full implementation. As funding becomes available, agencies will begin to employ or expand their use of cameras.

In implementing this new policy, DHS is not starting from scratch. Over the past decade, through previous pilot programs and other initiatives, key DHS components have already begun deploying BWCs. Expanding these previous efforts will make it easier for DHS to meet its goals of deploying BWCs across the Department on a nationwide basis.

Existing BWC Resources at CBP

CBP has [already issued](#) at least 7,000 BWCs to personnel, a process which began in August 2021 at Border Patrol locations across the southern and northern borders. More recently, Congress [authorized](#) \$21 million in fiscal year (FY) 2023 for the [Incident Drive Video Recording System \(IDVRS\)](#) at CBP, a program which oversees the agency's implementation of BWCs and related FOIA compliance and data storage. To date, CBP has [purchased](#) an estimated 10,476 BWCs and is on pace to deploy 18,000 cameras in FY 2023.

CBP [requested](#) an increase of \$19.6 million for the IDVRS program (for a total of \$40 million) in FY 2024 to support the acquisition of 4,500 additional body-worn cameras, mainly for Office of Field Operations (OFO) officers. This includes the associated licensing, supporting information technology, and operations costs.

Existing BWC Resources at ICE

In addition to CBP efforts around BWCs, ICE personnel have also been increasingly included in BWC programs. ICE's Office of Firearms and Tactical Program (OFTP) is charged with phasing the implementation of BWCs across the agency. ICE [conducted](#) a pilot program with BWCs, beginning with Homeland Security Investigations (HSI) special agents and followed by Enforcement and Removal Operations (ERO) officers in major cities in Georgia, Indiana, and Utah. Congress [authorized](#) \$12 million for ICE BWCs in FY 2023 and required the agency to use the results from its BWC pilot programs to develop guidance for full implementation across ICE.

ICE [requested](#) \$15 million in total program funding to equip 11,000 BWCs at ICE in FY 2024. This represents an increase of \$3 million compared to FY 2023. The request includes the associated licensing, supporting information technology, and operations costs, as well as a 1,600 sq/ft facility expansion to increase storage space to house BWC equipment. With appropriate funding levels, ICE projects the full implementation of BWCs by FY 2026. ICE [stated](#) that BWCs will "enhance ICE operations" by increasing transparency and improving training efforts.

Assessment

As detailed above, implementing BWCs across DHS on a nationwide basis will depend on Congress authorizing sufficient funds. Such funding would ensure agencies, including those that have already begun deploying BWCs, are able to fully adopt the technology across the entire Department.

Conclusion

In issuing a new Department-wide policy, DHS has taken a significant step to deploy the use of BWCs across the Department's nine law enforcement agencies. The new DHS policy sets initial requirements governing the use of BWCs and storage requirements, while directing agencies to implement more thorough and specific policies, procedures, and training within 180 days. This policy represents a major opportunity for DHS, one of the world's largest federal law enforcement institutions, to be a leader in 21st-century policy implementation at a federal level. Given the benefits of BWCs, including increased transparency and accountability to DHS personnel as well as the public, the new policy presents an exciting opportunity for DHS.

However, the ultimate success of this policy depends in large part on Congress. To implement BWCs on a Department-wide and nationwide basis, Congress must meet the Department's funding requests. This will allow CBP, ICE, and other DHS agencies to ensure that they have the equipment and resources they need to fully deploy BWCs.