
Body Worn Audio/Video System

347.1 PURPOSE

The University of California is committed to officer safety and public safety. The University has equipped its police departments with body worn audio-visual cameras (“BWV’s”, “devices” or “cameras”) for use as part of the officer’s uniform for the recording of field activity in the course of official police duties. The cameras are intended to provide a visual and audio record of police duties, including public contacts, arrests, and critical incidents. BWV’s provide documentation to be used in criminal investigations and prosecutions, internal or administrative investigations, training, and other circumstances. They also serve to enhance the accuracy of police reports, testimony in court, and enhance the Department’s community relationship-based policing efforts.

Body worn cameras provide a limited perspective of any encounter and must be considered with all available facts and evidence, such as officer perception, witness statements, officer interviews, other available video documentation, forensic and/or expert analysis, and documentary evidence. The cameras cannot always show the full narrative nor do they capture an entire scene. The use of cameras does not reduce or alter the requirement to provide thorough written documentation as required by this or other policies.

Persons reviewing recordings must be cautious before conclusions are reached about what the video shows, or when evaluating the appropriateness of an officer’s actions in a particular situation. Evaluating an officer’s actions must take into account a variety of factors and other circumstances.

The University is committed to officer safety and public safety. Officers must follow existing officer safety policies when contacting citizens or conducting vehicle stops as outlined in Department policies and procedures. Officer safety and the safety of the public shall always be the primary consideration, not the ability to record an event.

This policy is intended to balance the respect for privacy and other University values with legal, policy, and administrative obligations. Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion at all times.

347.2 POLICY

347.2.1 REQUIRED USERS

The following sworn personnel, from Lieutenant through Officer, are required to wear the BWV system while on duty, unless otherwise exempted by this Chapter:

- (a) Uniformed personnel while on regular assignment or on overtime status;
- (b) Detectives working in the field in an enforcement or specialized investigative (e.g., gang task force, violent crime task force) capacity, unless the use of BWV may compromise the identity of an undercover officer, confidential informant, or jeopardize tactics;
- (c) Personnel serving a search warrant, unless the use of the BWV may compromise the identity of an undercover officer, confidential informant, or jeopardize officer safety or

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tactics. Any exception to recording pursuant to this subsection (c) must receive prior approval from the Chief of Police or designee;

- (d) Other sworn personnel deemed appropriate by the Chief of Police or designee.

347.3 DEPARTMENT-ISSUED EQUIPMENT ONLY

Officers assigned a BWV camera must not use any other non-Department issued video or audio equipment, such as personally owned video or audio equipment, mobile devices or cell phones, to record enforcement or investigative activities involving members of the public unless authorized by the Chief of Police or designee.

Nothing in this policy precludes officers or other Department personnel from using authorized still photography equipment.

347.4 LOCATION OF BODY WORN CAMERA

The BWV camera generally consists of a body-mounted camera with a built-in microphone. The BWV shall be worn on the outside of the outermost garment (e.g., load-bearing vest, raincoat) or other departmental approved mounting option, on the upper torso, and facing forward in such a way to facilitate optimum recording field of view.

347.5 REQUIRED ACTIVATION OF BODY WORN CAMERA

Subject to the exceptions contained in this Chapter, or pursuant to the direction of a supervisor, officers shall activate their BWV device prior to initiating any criminal investigative or enforcement activity involving a member of the public, including all:

- (a) Vehicle or bicycle enforcement stops;
- (b) Pedestrian stops;
- (c) Calls for service;
- (d) Foot pursuits;
- (e) Searches (except strip searches);
- (f) Arrests;
- (g) Uses of force;
- (h) In-custody transports;
- (i) Witness or victim interviews;
- (j) Forced entry search warrants/tactical deployments;
- (k) When weapons other than those in the possession of law enforcement are present or alleged to be present;
- (l) Any encounter that becomes adversarial after the initial contact;
- (m) Initial inventory of seized money or high value property;
- (n) Crowd management events;

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- (o) Other investigative or enforcement activities where, in the officer's judgment, a video recording would assist in the investigation or prosecution of a crime, or assist in documenting the incident for later investigation or review.

347.6 EXCEPTIONS TO REQUIRED ACTIVATION OR CONTINUED RECORDING

Exceptions to required activation or continuation of the BWV recording are:

- (a) When, in the officer's judgment, activation, continuing to record, or changing the BWV functions would jeopardize their safety or the safety of the public. However, the officer shall activate or re-activate their BWV as soon as it is safe and practicable to do so unless other exceptional circumstances exist;
- (b) When a witness or victim refuses to provide a statement if recorded by the BWV and the encounter is not confrontational;
- (c) When, in the officer's judgment, a recording would interfere with their ability to conduct an investigation;
- (d) When, in the officer's judgment, a recording would be inappropriate because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances;
- (e) When recording could risk the safety of a confidential informant, citizen informant, victim, or undercover officer;
- (f) In patient care areas of a hospital, clinic, rape treatment center, or other healthcare facility (including mental health) unless enforcement action is being taken in these areas. If recording is necessary, officers shall make reasonable efforts to avoid recording individuals other than the suspect;
- (g) Once a crime scene is secured and the officer no longer has an investigative role, and where the chance of encountering a suspect is unlikely;
- (h) Prior to or while discussing a case on scene with other officers or during on-scene tactical planning;
- (i) When, in the officer's judgment, privacy concerns outweigh any legitimate law enforcement interest in recording;
- (j) When ordered to stop recording by a supervisor;
- (k) When the recording of a person is in violation of the law.

347.7 DISCRETIONARY ACTIVATION

There are many enforcement or criminal investigation situations where the use of the BWV is appropriate, and this policy is not intended to describe every circumstance in which recording would be appropriate or otherwise further the purpose of body cameras. In addition to the circumstance in which activation is required, officers should activate the camera any time they feel its use would be appropriate and valuable to document an on-duty incident, unless otherwise prohibited by this policy or law.

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347.8 ASSIGNMENTS TEMPORARILY PREVENTING BWV USE

It is recognized that officers subject to call out, motorcycle officers, or K9 unit officers may not have access to their BWV equipment prior to responding to a scene, or participating in an enforcement or criminal investigation. In these cases, officers should pick up their camera as soon as practicable.

347.9 RECORDING OF ENTIRE EVENT

Once activated, the BWV shall remain on until the conclusion of the contact or event, unless authorized by a supervisor or otherwise permitted under this Chapter.

347.10 DOCUMENTATION OF RECORDINGS, FAILURE TO ACTIVATE, OR DISCONTINUATION OF BWV RECORDINGS

Officers shall document, in the appropriate report (e.g., police report, traffic citation, CAD entry), if they have captured an incident, did not capture an incident, and/or if they interrupted the recording for any reason.

If an officer does not activate the BWV prior to initiating an enforcement or investigative contact, fails to record the entire contact, or interrupts the recording for any reason, the officer shall notify their supervisor of the reason(s) in writing.

347.11 NOTICE TO MEMBERS OF THE PUBLIC OF BWV RECORDING

Officers are not required by law or this Chapter to obtain consent from members of the public when the officer is lawfully in an area where the recording takes place. However, officers may inform individuals they are recording, when feasible to do so, particularly when the advisement may gain compliance or cooperation, or assist in an investigation.

In addition, officers entering into a private space, (e.g., residences, restrooms, locker rooms), must make a reasonable effort to notify the occupants that the BWV is present before entering the area, unless: the officer enters the area pursuant to a warrant; such notice would, in the officer's judgment, jeopardize their safety or the safety of the public; such notice would compromise an investigation or tactics; or if other exigent circumstances exist.

347.12 PLAYBACK OF BWV RECORDING

Officers are not required to play back BWV recordings to allow members of the public to review the video footage in the field.

347.13 PROHIBITED BWV RECORDING

The activation or use of the BWV is prohibited, unless otherwise authorized by this Chapter, during:

- (a) Department briefings, meetings, roll calls or while in private Department spaces such as locker rooms, break rooms or restrooms;
- (b) Non-work related activities or other activities not related to enforcement contact nor criminal investigation;

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- (c) Private conversations with any other member of the Department without the written consent of all involved parties;
- (d) Department administrative investigations;
- (e) Homicide or other major crime briefings, or during a homicide walk-through;
- (f) Contact with confidential informants;
- (g) Depositions, court proceedings, pre-trial conferences, or any other judicial or quasi-judicial proceedings (e.g., administrative hearings such as Department of Motor Vehicle hearings);
- (h) While in a facility whose primary purpose is to provide psychiatric or medical services unless responding to a call for service involving a suspect or taking a suspect, victim, or witness statement;
- (i) While inside jail facilities;
- (j) Any area where audio or video recording is prohibited by law.

Nothing in this section is intended to interfere with an officer's ability to openly record an interrogation pursuant to California Govt. Code §3303(g), or to preclude activating the BWV when confronting a violent or assaultive suspect or other circumstance where a reasonable use of force may be anticipated.

347.14 TRAINING

Officers who are assigned the BWV must complete Department approved training in BWV policies, proper use, and maintenance of the device before using the system in the field. Supervisors must complete Department approved training in the supervision and management of the BWV system.

Supplemental training will be conducted when deficiencies are identified in policy compliance, use, maintenance, or supervision and management of the BWV system. Additional appropriate training will also be conducted should there be changes in policy, hardware, or software that affects the use, maintenance, supervision or management of the system.

347.15 INSPECTION AND TESTING OF EQUIPMENT

Officers shall be responsible for inspecting and testing their BWV equipment at the start of their shift and shall ensure that the equipment is properly functioning. Officers shall notify their supervisor, in writing, if the BWV equipment is not properly functioning. For purposes of this Chapter "in writing" shall include e-mail.

347.16 ASSIGNED BWV EQUIPMENT

No officer shall use BWV equipment not assigned to them, unless authorized by a supervisor.

347.17 DAMAGED, MALFUNCTIONING OR INOPERABLE EQUIPMENT

The BWV equipment is the responsibility of the assigned officer and must be used with reasonable care to ensure proper functioning and reliability. If an officer's BWV malfunctions or is damaged or

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inoperable, the officer shall notify the on-duty supervisor. Campuses shall develop and implement local policies on notification and documentation of such notification.

If feasible, the supervisor shall provide the officer with a functional BWV prior to the officer deploying to the field. However, the lack of a BWV unit shall not prevent an officer from working their shift or assignment.

An officer shall not be held financially responsible for damaged, malfunctioning or inoperable equipment unless abuse of the equipment by the officer is found to be the cause.

347.18 LABELING, CATEGORIZING AND UPLOADING RECORDINGS

Officers shall label, categorize and upload their BWV recordings into the BWV data storage system in accordance with UCPD procedure(s).

347.19 VIEWING RECORDING BY RECORDING OFFICER

Subject to the exceptions in this Chapter, officers should review BWV recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to assist with reports, statements, and documentation that are accurate and complete. Officers must not use the fact that a recording was made to avoid preparing an accurate, detailed, and complete report.

347.20 MODIFICATION, ALTERATION, OR DELETION

No employee shall modify, alter, or delete video or audio once recorded by the BWV camera, except as authorized by Department policy.

347.21 REQUEST FOR DELETION OF ACCIDENTAL RECORDING

In the event of an accidental activation of the BWV where the resulting recording is of no potential investigative or evidentiary value, the recording officer may request that the BWV file be deleted by submitting a request in writing to the Chief of Police or designee who shall review the recording, and if approved, send the request to the system administrator for deletion.

347.22 RESTRICTION OF PERSONAL OR SENSITIVE INFORMATION

In the event of a BWV recording that captures sensitive or personal information for which access should be restricted ("restricted recording"), an officer may submit a request in writing to the Chief of Police or designee to restrict access to that portion of the recording. The Chief of Police or designee will determine what, if any, portion of the recording shall be restricted. The system manager will then restrict access to only that portion of the recording that is approved. The remainder of the recording will be maintained consistent with existing policy.

347.22.1 ACCESS TO RESTRICTED RECORDING BY AUDITOR OR INVESTIGATOR

The Chief of Police or designee may allow an investigator or auditor to view a recording that has been restricted pursuant to Section 347.22 if the request is necessary in order to conduct an authorized criminal investigation, administrative investigation, or a Department inspection or audit.

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- (a) **Notification Prior to Access of Restricted Recording.** Prior to granting access, the Chief of Police or designee must notify the officer who originally requested that the recording be restricted. If the original officer objects to the review, they shall immediately notify the Chief of Police or designee of the objection in writing within seven calendar days of receiving notification. Absent exigent circumstances, the restricted portion of the recording shall not be disclosed or reviewed by others until the Chief of Police or designee has made a determination regarding the objection and disclosure.

Once a final determination has been made, the original requesting officer will be notified in writing within 48 hours, and prior to release of the restricted information.

- (b) **Exception to Notification Requirement for Restricted Recording** . When notification of a request to review a restricted recording would compromise an ongoing administrative or criminal investigation, the notification requirement in Section 347.22.1(a) shall not apply if approved by the Chief of Police or designee.

347.22.2 ACCESS TO RESTRICTED RECORDING BY LAW ENFORCEMENT OR LEGAL OBLIGATION

If a restricted recording is requested by another law enforcement agency, or the Department is required to produce it by law, the officer who originally requested the information be restricted will be notified, absent exigent circumstances, of the request or legal requirement, within 48 hours, in writing.

347.23 UNAUTHORIZED ACCESS TO RECORDINGS PROHIBITED

Although the data captured by the BWV is not considered Criminal Offender Record Information (“CORI”), it shall be treated as such and in accordance with Department policy regarding access to CORI. All access to the system must be logged and is subject to audit at any time. Accessing, viewing, copying, or releasing BWV data, including recordings, for non-law enforcement purposes not otherwise authorized by this Chapter is strictly prohibited and will result in disciplinary action.

Access to BWV data shall only be from Department authorized computers, Department work stations or the BWV cameras. However, administrative users of the BWV data or evidence management system may access the data from a Department authorized device outside of the Department for the purpose of completing administrative tasks, such as locking or unlocking users.

347.24 COPYING OF BWV RECORDING OR DATA

Personnel shall not make copies of any BWV recording for personal use or to share with unauthorized individuals or entities. Only department authorized devices shall be used to copy, view, share, or otherwise distribute BWV recordings. Digital evidence captured by BWC are investigative records and shall be handled pursuant to existing Department policies and procedures.

347.25 REVIEW OF BWV RECORDINGS BY DEPARTMENTAL EMPLOYEES

Access to BWV data shall be limited as follows, unless otherwise provided for in this Chapter:

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- (a) Officers may view their own BWV data for official Department business;
- (b) Any employee may review BWV data as it relates to:
 - 1. Their involvement in an incident for purposes of completing a criminal investigation and/or preparing official reports;
 - 2. Prior to courtroom testimony, courtroom presentation, or testimony at a quasi-judicial administrative hearing;
 - 3. Providing a statement in an administrative investigation.
 - 4. Providing a statement in a criminal investigation, including officer-involved shooting investigations and other uses of force;
 - 5. This section does not apply to sworn personnel providing a public safety statement following a critical incident.
- (c) When exigent circumstances exist, such as identifying a suspect or other pertinent information in the event of an injured officer;
- (d) Supervisors and/or investigators who are investigating an allegation of misconduct, may view the recording in order to assist in the investigation. For citizen complaints, a supervisor may independently review applicable video. For internally generated allegations of misconduct, a supervisor shall receive authorization from the Chief of Police or designee to review any applicable video;
- (e) Command staff may randomly review BWV recordings for the purposes of validity testing, including the review of one recording per officer per month. Any BWV system deficiencies identified will be documented and remedied. The method of random selection will be agreed upon between the Federated University Police Officers Association (FUPOA) and the UC Council of Chiefs. Any performance issues will be discussed with the officer and training provided. Any criminal activity will be investigated.
- (f) To allow for necessary administrative functions such as BWV data management, system maintenance and repair, and evidence management;
- (g) Command staff, supervisors, and authorized Department personnel may conduct random periodic inspections and reviews to determine whether Department personnel are accessing BWV recordings and data for legitimate and authorized purposes;
- (h) Supervisors may review BWV recordings, but not in violation of Section 347.27, as follows:
 - 1. When necessary as part of the report approval process.
 - 2. To ensure that the video and audio was properly captured, uploaded/downloaded;
 - 3. To ensure that the video and audio was categorized appropriately for evidentiary or retention purposes;
 - 4. To conduct roll call training on expectations, use and maintenance of BWV equipment. Any use of BWV recordings for training must comply with Section 347.27 of this Chapter;

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5. To debrief BWV-captured incidents of value after obtaining authorization from the Chief of Police or designee
6. In order to resolve citizen complaints pursuant to Section 347.25(d).

347.26 USE OF RECORDINGS FOR TRAINING

A BWV recording may be used for training, as long as the recording will not be used for disciplinary purposes. Any person recommending a particular recording shall submit the recommendation through the chain of command.

The Chief of Police or designee must notify the recording officer and any depicted officer of the intent to use the recording for training. If any such officer objects to the review, they shall immediately notify the Chief of Police or designee of the objection orally or in writing. The Chief of Police or designee shall determine whether an officer's objection outweighs the training value.

347.27 RESTRICTION ON USE FOR MONITORING FOR VIOLATIONS OF POLICY/LAW

It shall be a violation of this policy for supervisors to review recordings for the sole purpose of looking for violations of Department policy or law not related to a specific complaint or incident. This section is not intended to restrict Command staff from performing monthly viewings of an officer's recordings pursuant to Section 347.25(e) of this Chapter.

347.28 USE OF DEADLY FORCE - HANDLING OF RECORDING

For any use of force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury, the following shall apply:

- (a) The supervisor of the involved officer(s) must take possession of their BWV equipment as soon as possible, ensuring that recording has stopped and that the power is off, and maintain custody until the BWV is transferred to the assigned investigator;
- (b) The Chief of Police or designee will assign an investigator, and the assigned investigator shall take possession of the BWV camera, and perform the upload process, if necessary;
- (c) In order to protect the integrity of the video and to ensure that the video is properly uploaded, the officer(s) involved shall not be allowed to review the BWV recording prior to turning over the BWV equipment to the supervisor.
- (d) The involved officer shall be permitted to view the BWV video of the incident once the video has been uploaded to the server. If the officer chooses not to view the video prior to giving an initial statement, the officer will have an opportunity to review the recording(s) after the initial statement has been taken and provide a supplemental statement if desired.
- (e) Prior to viewing the BWV, the officer must read and sign the Video/Audio Evidence Review Acknowledgment (Attachment A);
- (f) The fact that the officer was given the opportunity to review the BWV should be documented, as well as the time, date and location of any such viewing;

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- (g) Supervisors shall not view the BWV recording without express permission from the Chief of Police or designee;
- (h) Use of the BWV will be properly documented in the appropriate report(s), and the recording booked into evidence;
- (i) Supervisors shall ensure that BWV information is compiled for department review boards and/or administrative review reports (e.g., pursuit review, use of force review, etc.), when applicable.

See Video/Audio Evidence Review Acknowledgment : [UC Irvine PD - BWV Acknowledgment.pdf](#)

347.29 OTHER USE OF FORCE - HANDLING OF RECORDING

For any use of force not covered by Section 347.28, the following shall apply:

- (a) Supervisors shall allow involved officer(s) to review their own BWV recordings;
- (b) Supervisors shall allow involved officer(s) to review other BWV recordings, if deemed necessary to assist with complete and accurate reports and documentation of the incident;
- (c) Prior to viewing the BWV, the involved officer(s) must read and sign the Video/Audio Evidence Review Acknowledgment (Attachment A);
- (d) Use of the BWV will be properly documented in the appropriate report(s), and the recording booked into evidence;
- (e) Supervisors shall ensure that BWV information is compiled for department review boards and/or administrative review reports (e.g., pursuit review, use of force review, etc.), when applicable.

See Video/Audio Evidence Review Acknowledgment: [UC Irvine PD - BWV Acknowledgment.pdf](#)

347.30 RETENTION

Digital evidence captured by BWC shall be treated as an investigative record and handled pursuant to existing Department retention policies and procedures.

347.31 TECHNICAL SPECIFICATIONS AND SYSTEM SECURITY

The University of California Systemwide Coordinator of Police Services shall, in consultation with the Council of Police Chiefs, develop minimum technical standards and specifications and system functionalities for BWV systems. In addition, the security of the BWV data must be in compliance with University policy and within the Criminal Justice Information Services guidelines.

Attachments

UC Irvine PD - BWV Acknowledgment.pdf

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ATTACHMENT A

Video/Audio Evidence Review Acknowledgment

In this case, there is video evidence that you will have an opportunity to view after you have given a public safety statement (if applicable). Video evidence has limitations and may depict the events differently than you recall and may not depict any or all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The “frame rate” of video may limit the camera’s ability to capture movements normally seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident. You should not feel in any way compelled or obligated to explain any difference in what you remember and acted upon from what viewing the additional evidence provides you. If listening to audio recordings or viewing video recordings provides additional clarity to what you remember that is fine; if it does not, that is fine also.

Read and Acknowledged:

Signature

Date and Time

Printed Name

Badge No.

Witnessed:

Signature

Date and Time

Printed Name

Title/Position

Please note that this policy is undergoing preliminary review and is subject to revision throughout the review process.

FAQ: Body-Worn Cameras at UCI

What is a body-worn camera?

Body-worn cameras (BWCs) are relatively small devices that record interactions between community members (e.g., the public, suspects, and victims) and law enforcement officers. The video and audio recordings from BWCs can be used by law enforcement to demonstrate transparency to their communities; to document statements, observations, behaviors, and other evidence; and to deter unprofessional, illegal, and inappropriate behaviors by both law enforcement and the public. UCI uses the WatchGuard Vista XLT BWC. It is a two-piece system.

How does an officer body-worn camera work?

The technology consists of the camera, which is typically worn on the officer's uniform with a forward-facing viewable area. There are a number of different types of cameras with differing options, including user controls such as push to record, touch-screen controls, video and audio feed, and playback in field. UCI's WatchGuard video systems upload video from the officer-worn system through a docking station on a local storage device (e.g., server) and then save the video to cloud storage. The in-car system uploads through a wireless access point to the local storage server before it's uploaded to the cloud storage.

How are body-worn cameras different from dashboard and CCTV systems?

Dashboard or in-car video camera systems are fixed to the law enforcement vehicle, therefore they can only capture video from the front of the vehicle or the direction the camera is facing.

Body-worn cameras (BWCs) retain the strengths of the dashboard camera, but they allow the technology to accompany the officer wherever they go.

BWCs are different from closed-circuit television systems (CCTV). CCTVs are stationary systems that record behavior in a given public space. BWCs and in-car systems move about wherever the officer is driving or walking.

How can law enforcement agencies benefit from a body-worn camera program?

Body-worn cameras (BWCs) are only one of the tools available to law enforcement for improving community trust, transparency, and accountability. There are several benefits for law enforcement officers who wear BWCs.

BWCs provide an additional layer of safety for the officer by capturing an event when the officer could have been incapacitated.

Adoption of a BWC program can represent a law enforcement department's effort to demonstrate transparency and accountability.

In several studies, community member complaints against officers decreased following adoption of BWCs. The results from these studies are supported by in-person interviews with 40 law enforcement executives conducted by the Police Executive Research Forum (PERF). In one study, use-of-force by law enforcement officers decreased following adoption of BWCs (Ariel, Farrar, & Sutherland, 2014). Continuing research seeks to identify the underlying cause of the benefits.

Additionally, video from BWCs may assist with prosecution of criminal cases or assist in the review of community members' complaints against officers.

When will an officer activate a body-worn camera?

Subject to the exceptions contained in Department policy, officers are required to activate their BWC device prior to initiating any criminal investigative or enforcement activity involving a member of the public. There are exceptions to this that are also contained in the UC Policy.

Do officers using BWCs have to tell me they are recording?

Officers are not required by law or UC Policy to obtain consent from members of the public when the officer is lawfully in an area where the recording takes place. However, officers may inform individuals they are recording, when feasible to do so, particularly when the advisement may gain compliance or cooperation, or assist in an investigation.

In addition, officers entering into a private space, (e.g., residences, restrooms, locker rooms), must make a reasonable effort to notify the occupants that the BWC is present before entering the area, unless: the officer enters the area pursuant to a warrant; such notice would, in the officer's judgment, jeopardize their safety or the safety of the public; such notice would compromise an investigation or tactics; or if other exigent circumstances exist.

Can the public review video captured by the officer BWCs or in-car camera systems?

Video from these systems is not a public record so video is not available for public review or viewing. If the video is part of the exception created by California Senate Bill 1421 or Assembly Bill 748 involving records related to specific incidents, complaints and investigations involving police officers and/or critical incidents (as defined by law), the law allows the public, through the Public Records Act, to obtain copies under certain conditions and with certain time limits. These are contained in the language of both bills and their subsequent changes to the law.

How long is the video retained?

Video is normally retained for two years under the University of California, Office of the President (UCOP) Records Retention policy. In cases where the video is part of a criminal case it would be retained as long as the case is open or can be appealed. Video determined to have no evidentiary value may be destroyed within 60 days.

What are those critical incident or investigations where BWC's or in-car camera video is a public record?

Senate Bill 1421 amended the California Government Code section 832.7 to generally require the disclosure of records and information under the California Public Records Act (Government Code section 6250, *et seq.*) concerning the following types of incidents and investigations:

- Records relating to the report, investigation or findings of an incident involving the discharge of a firearm at a person by a peace officer or a custodial officer.
- Records relating to the report, investigation or findings of an incident in which the use of force by a peace officer or a custodial officer against a person results in death or great bodily injury.
- Records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public. "Sexual assault" under Section 832.7 includes the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or any other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.
- Records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction of evidence or falsifying or concealing of evidence.

SB 1421 provides timelines for the disclosure of records in various circumstances for records disclosable under the “discharge of a firearm” and “use of force” provisions. The additional time provisions apply only when there is an active criminal or administrative investigation or an active criminal prosecution. This additional time may be anywhere from an additional 60 days to additional 18 months depending on the specific facts and nature of the ongoing proceedings; however, once the proceedings are completed, records subject to Public Records Act disclosure must be produced “promptly.” (See Gov. Code § 832.7(b)(7); Gov. Code § 6253(b).)

Assembly Bill 748, requires law enforcement agencies to produce, in response to Public Records Act requests, video and audio recordings of “critical incidents,” which are defined as incidents involving the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or great bodily injury.

Under AB 748, a public agency may delay disclosure for between 45 days and one year during an active criminal or administrative investigation if disclosure will “substantially interfere” with the investigation, including endangering a witness’ or confidential source’s safety.

However, after one year, the agency may only continue to withhold the recording where it demonstrates, by clear and convincing evidence, the disclosure would still substantially interfere with an ongoing investigation. (Id.) Under the - 9 - statute, the public agency must also continually reassess the withholding of any recordings and notify the Public Records Act requester, in writing, every 30 days. (Id.)

Once the specific grounds for withholding the recording of the critical incident are resolved, the recording must be disclosed, subject to the potential for redactions where legitimate privacy interests are implicated.

For additional information, see the following:

[SB 1421](#)

[AB 748](#)

[Penal Code 832.7](#)