

### **3-06/200.00 BODY WORN CAMERAS**

The purpose of this policy is to establish responsibilities and procedures for the use and deployment of the Department issued body worn camera (BWC) and the Digital Evidence Management System (DEMS).

The following provisions provide Department members with instructions on the use of BWCs to ensure reliable recording of enforcement and investigative contacts with the public. The Department has adopted the use of BWCs by uniformed personnel to:

- Collect evidence for use in criminal investigations and prosecutions;
- Deter criminal activity and uncooperative behavior during law enforcement interactions with the public;
- Assist personnel with completing reports and providing testimony;
- Promote accountability;
- Assist with resolving citizen complaints and administrative investigations; and
- Provide additional information for employee evaluation, training, and improvement.

BWCs provide additional information regarding enforcement and investigative contacts with a member of the public. The quality and utility of BWC recordings may be limited by factors including lighting, camera position, and movement. A BWC recording may not capture the Department member's line-of-sight, record the events as the Department member experienced them, record the Department member's perceptions and/or fears, or account for the Department member's reaction time to an event. It is incumbent upon the criminal and administrative investigators, and the reviewers to understand and account for limitations of video and all other available evidence, including witness statements and forensic analysis when evaluating a Department member's actions.

### **3-06/200.03 DEFINITIONS**

Audit Trail - An electronic tracking system which provides a record of uploads, views, downloads, transfers, and modifications to copies of the original record.

Body Worn Camera (BWC) – A video and audio recording device worn by a Department member which allows an event to be recorded and saved as a digital file.

Body Worn Camera Unit (BWCU) – Unit responsible for the issuance of BWC equipment, California Public Records Act requests (CPRA), and oversight of the BWC program.

Buffering Mode or Standby Mode - The BWC power is on and in a state where the device is capturing only video, but not saving the recording to memory. The device is

continually recording for a designated time and will only save once the BWC is activated to record both sound and video.

Desktop Application – A stand-alone program residing on a Department computer that accomplishes the same function as the docking station. The sync application is only for personnel who do not have access to a docking station.

Digital Evidence – BWC files (including digital photographs), documents, video, or audio recordings, suitable for upload to the Digital Evidence Management System (DEMS).

Digital Evidence Management System (DEMS) – A secure, “cloud” based storage system managed by the BWCU, externally hosted by the vendor, and available to authorized users. DEMS is used to organize, classify, manage, view, share, and archive digital evidence. DEMS tracks and provides an extensive audit log of all activity to protect the chain of custody. Levels of access can be set and restricted within DEMS.

Docking Station – A hardware device which allows for a BWC to be mounted securely while the BWC is charging and allows for uploading files to the DEMS system. When the camera is docked, video data stored on the camera is automatically uploaded to the DEMS.

Metadata - Searchable data specific to the digital file, URN numbers, tag numbers, and other descriptors used to identify digital evidence, and required to be added to digital files to facilitate searching for the file.

Mobile Application – An application installed on a smartphone or smart device (viewer), which allows for connection to the DEMS system, connection to the BWC, or other integration.

Point-of-View Camera – A BWC which has the ability to be mounted to glasses, headgear, epaulette, or collar.

Recording off – The process of turning off the BWC and ensuring it is not recording. This discontinues the recording being saved to memory, but does not prevent the device from buffering.

Recording on – The process of turning on the BWC and recording video and/or audio to memory.

Power On/Off – The process of powering on or off the recording device. This merely turns the device on or off, and does not refer to recording.

Tagging – A method to add metadata to digital files which can be retrieved by URN number, date/time, etc.

Viewer (Smart Device) – A device which allows review and tagging of videos. It can also be used to take photographs and provide geographic location data.

### **3-06/200.05 BODY WORN CAMERAS – EQUIPMENT**

Body Worn Camera (BWC) equipment consists of a body-mounted camera with a built-in microphone and a handheld viewing device. The BWC is worn on the outside of a Department member's uniform, facing forward to make video and audio recordings. The BWC audio and video recordings are stored on the BWC and can be viewed on a handheld viewer or on a Department computer.

Department personnel trained and issued a BWC device are required to wear and use their BWC while on duty, consistent with the terms of this policy. The on-duty watch commander or incident commander may grant exceptions for wearing a BWC to personnel who are working outside overtime assignments, special operations, or due to shortage of replacement cameras.

### **3-06/200.08 BODY WORN CAMERAS – ACTIVATION**

Department personnel shall activate their body worn camera (BWC) prior to initiating, or upon arrival at, any enforcement or investigative contact involving a member of the public, including all:

- Vehicle stops;
- Pedestrian stops (including self-initiated consensual encounters);
- Calls for service;
- Code-3 responses, including vehicle pursuits;
- Foot pursuits;
- Searches;
- Arrests;
- Uses of force, including any transportation of the subject;
- In-custody transports of persons who are uncooperative, belligerent, or threatening;
- Suspect, victim, and witness interviews (except as indicated below); and/or
- Any encounter with a member of the public who is or becomes uncooperative, belligerent, or otherwise hostile.

Department personnel may activate their BWC for the following reasons:

- Transportation of a citizen; and/or
- Other investigative or enforcement activities where, in the Department member's judgment, a video recording would assist in the investigation or prosecution of a

crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.

**3-06/200.10 INABILITY TO ACTIVATE BODY WORN CAMERA PRIOR TO INITIATING ENFORCEMENT OR INVESTIGATIVE CONTACT**

If a Department member fails to or is unable to activate their body worn camera (BWC) prior to initiating any of the enforcement or investigative contacts listed in section 3-06/200.08, they shall activate it as soon as it is practical and safe to do so. As in all enforcement or investigative contacts including vehicle and pedestrian stops, the safety of Department personnel and members of the public are the highest priorities. A member who fails to activate a BWC because an incident unfolds too quickly making activation impracticable or unsafe does not violate this policy.

**3-06/200.13 RECORDING OF THE ENTIRE CONTACT**

The body worn camera (BWC) shall continue recording until the enforcement or investigative contact involving a member of the public has ended. If an investigative or enforcement contact involving a member of the public resumes after the video has stopped, the Department member shall reactivate the BWC device and continue recording.

**3-06/200.15 DOCUMENTATION REQUIRED FOR FAILING TO ACTIVATE BODY WORN CAMERA OR RECORDING THE DURATION OF THE CONTACT**

If a Department member is unable or fails to activate their body worn camera (BWC) prior to initiating an enforcement or investigative contact, fails to record an entire contact, or interrupts the recording for any reason, other than the exceptions listed in section 3-06/200.18, they shall document their reasons in any accompanying log entries, reports, memoranda, and metadata.

**3-06/200.18 BODY WORN CAMERA RECORDING EXCEPTIONS**

Department members may stop a recording of the body worn camera (BWC) during a required activation period with a member of the public when:

- A witness or victim refuses to provide a recorded statement and the encounter is non-confrontational;
- In the Department member's judgment, a recording would interfere with their ability to conduct an investigation, or may be inappropriate, because of the victim or witness' physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of rape, incest, or other form of sexual assault);
- The recording would risk the safety of a confidential informant, citizen informant, or undercover officer; and/or

- Inside patient-care areas of a hospital, rape treatment center, or other healthcare facility unless an enforcement action is taken in these areas.

Department members may stop a recording during a required activation period, while not engaged with a member of the public, when:

- Discussing points-of-law, tactics, or debriefing an incident with other Department members or other law enforcement agencies away from any member of the public;
- Directed to do so by an on-scene supervisor at the rank of sergeant or above;
- A deputy participating in the field training program is directed to do so for the purpose of providing instruction and/or insight in furtherance of the training mission; and/or
- Performing station details entered as a call for service, such as mail runs, message deliveries, that will not involve contacts with members of the public.

If a recording exception is utilized by a BWC-equipped Department member, they shall:

- Announce the reason for stopping the video prior to turning the BWC recording off.
- Document the deactivation reason in the metadata file for the event in the Digital Evidence Management System (DEMS); and
- Document the deactivation in any associated written report.

### **3-06/200.20 LOS ANGELES COUNTY SHERIFF CUSTODY FACILITIES**

Department members are permitted to use a body worn camera (BWC) inside any Department custody facility for recording any investigative or enforcement activity.

Department members are prohibited from recording a strip search pursuant to section 5-03/030.05 of this manual.

Department members shall not initiate a BWC recording in areas where inmates are engaged in attorney-client privileged communications, unless an enforcement action is taken in these areas.

### **3-06/200.23 LOS ANGELES COUNTY SUPERIOR COURTHOUSES**

Department members shall not initiate a recording of a body worn camera (BWC) in a courtroom that is in session, unless an investigative or enforcement action is taken in these areas.

Department members shall not initiate a BWC recording of inmates in secured areas designated and marked as attorney rooms or satellite lockup areas of attorney/client communications, except by court order or emergency.

On-duty Department members who appear in court to testify while equipped with a BWC shall turn the camera to the "recording off" position to avoid unauthorized recording of a courtroom proceeding.

If a Department member accidentally initiates a recording inside a courtroom while court is in session, the member shall immediately notify the court and their immediate supervisor of the existence of the recording. The supervisor will communicate any direction from the court to the Body Worn Camera Unit (BWCU). The BWCU will facilitate compliance with any and all orders by the court.

### **3-06/200.25 CONFIDENTIAL NATURE OF RECORDINGS**

Body Worn Camera (BWC) use is limited to enforcement or investigative activities involving members of the public. The BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Department policy. Department members shall comply with all applicable laws and policies regarding confidential information. Unauthorized use or release of BWC recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Any unauthorized use or release of BWC recordings in violation of confidentiality laws and/or Department policies is prohibited.

### **3-06/200.28 PROHIBITION AGAINST MODIFICATION OF RECORDINGS**

Department members shall not copy, edit, alter, erase, or otherwise modify in any manner body worn camera (BWC) recordings except as authorized by law or Department policy.

### **3-06/200.30 NOTICE TO MEMBER OF THE PUBLIC OF BODY WORN CAMERA RECORDING**

Department members may, but are not required to, inform individuals that they are being recorded. Department members are not required to obtain consent from members of the public when the member is lawfully in the area where the recording takes place. For example, a member who lawfully enters a business or residence shall record any enforcement or investigative contact in accordance with this policy, and is not required to obtain consent from members of the public who may also be present. Department members shall not playback body worn camera (BWC) recordings for any member of the public absent the need to do so for purposes of conducting or furthering an investigation or in exigent circumstances.

### **3-06/200.33 PROHIBITION AGAINST RECORDING PERSONNEL IN NON-ENFORCEMENT OR INVESTIGATION SITUATIONS**

Body Worn Camera (BWC) equipment shall only be used in conjunction with official law enforcement and investigative activities involving members of the public. BWCs shall not be used to record Department personnel during briefings, meetings, trainings, or while in private spaces such as locker rooms, restrooms, or private offices. BWCs shall not be used to record Department personnel in any Department facility, except in the context of enforcement or investigative contacts involving a member of the public.

**3-06/200.35 DEPARTMENT ISSUED EQUIPMENT ONLY**

Department members shall not use personally owned body worn cameras.

**3-06/200.38 PROPERTY OF THE DEPARTMENT**

Body Worn Camera (BWC) equipment and all data, images, video, and metadata captured, recorded, or otherwise produced is the sole property of the Department and any unauthorized release is strictly prohibited.

**3-06/200.40 TRAINING REQUIRED**

Department members who are assigned a body worn camera (BWC) must complete Department-approved training in the proper use, maintenance, and policies of the devices and Digital Evidence Management System (DEMS) before deploying a BWC or utilizing DEMS.

**3-06/200.43 INSPECTION AND TESTING OF EQUIPMENT**

Body worn camera (BWC) equipment is the responsibility of the assigned Department member and will be used with reasonable care to ensure proper functioning and reliability. At the start of a shift, members shall inspect and test their BWC and make sure it is undamaged and operating properly.

**3-06/200.45 DAMAGED, MALFUNCTIONING, OR INOPERABLE EQUIPMENT**

If a Department member's body worn camera (BWC) malfunctions or is damaged, the member shall notify the watch sergeant and complete an e-mail to the Body Worn Camera Unit (BWCU). The member is required to provide the malfunctioning or damaged equipment to the watch sergeant and obtain a functional BWC as soon as practicable.

**3-06/200.48 IDENTIFYING RECORDINGS**

For each incident recorded on a body worn camera (BWC), Department members shall enter metadata for the event type and other required information using the BWC equipment and software that best describes the content of the recording (i.e. arrest, traffic stop, report) prior to the end of their shift. BWC recordings are not a replacement

for written reports or other required documentation such as a log summary in the Deputy Daily Worksheet (DDWS).

**3-06/200.50 STORAGE OF RECORDINGS**

At the end of each shift, members shall upload all body worn camera (BWC) recordings to secure storage by docking the device at the station/unit.

**3-06/200.53 VIEWING OF BODY WORN CAMERA RECORDINGS**

All body worn camera (BWC) video will be reviewed only on a right-to-know and need-to-know basis, and will only be viewed in furtherance of a criminal investigation, administrative necessity, or audit. Recordings shall not be routinely or randomly viewed solely for the purpose of searching for policy violations where no independent allegation or evidence of a policy violation exists.

Department members are permitted to view BWC recordings through two mediums (Department-issued smartphone device or Department computer). All Department members who view a video other than their own shall document in the audit trail their reason for viewing the video.

The accuracy of reports, Department member statements, and other official documentation is essential for the proper administration of justice and complying with the Department's obligation to maintain full and complete records of enforcement and investigative activities. Investigators, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Department members are encouraged to review BWC recordings on their assigned smartphone device or Department computer prior to documenting an enforcement or investigative activity to ensure their reports, statements, and documentation are as accurate and complete as possible.

If a Department member does not review the BWC recording before submitting a report, the member must document that fact in the report. If any portion of an enforcement or investigative contact resulting in an arrest was captured by BWC equipment, members shall identify the existence of a BWC recording in all reports.

**3-06/200.55 USE OF FORCE INCIDENTS**

**Category 1 or Category 2 Use of Force Incidents**

Department members involved in or witnessing Category 1 or Category 2 use of force incidents shall be permitted to review body worn camera (BWC) recordings and, if deemed necessary by the handling supervisor, review other recordings to ensure complete and accurate reports and documentation of the incident.

### **Category 3 Use of Force Incidents, Including Deputy-Involved Shootings**

Department members involved in or witnessing known Category 3 use of force incidents, including deputy-involved shootings, shall not view any recordings until authorized by the handling Internal Affairs Bureau (IAB) lieutenant or, in cases where IAB does not handle the matter, the handling Homicide Bureau lieutenant or watch commander.

Once authorized, the Department member shall have a right to review their BWC recording and any other relevant video recording in possession of the Department, as deemed appropriate by the assigned lieutenant, prior to being interviewed.

A Department member may have an employee representative present during the review of the BWC recording(s) without any investigator or supervisor present. The separation and monitoring of Department members involved in a shooting shall be maintained during the review of BWC recording(s) and such review shall not occur jointly among involved members.

### **Supervisor's Responsibilities**

Following a known Category 3 use of force incident, including deputy-involved shootings, the on-scene supervisor shall, once the scene is secured:

- Take possession of all BWCs devices from involved personnel;
- Power off the devices and secure them;
- Turn the devices over to the handling lieutenant or watch commander; and
- Upload the video and secure the viewing rights, or ensure a member of the Body Worn Camera Unit (BWCU) does so.

For deputy-involved hit shootings and in-custody deaths, the handling Homicide Bureau lieutenant will authorize the review of video by the involved Department member. For non-hit shootings and known Category 3 use of force incidents, the IAB force shooting response team lieutenant will authorize the review of video by the involved Department member. For Category 3 use of force incidents not handled by Homicide Bureau or IAB, the unit watch commander will authorize the review of video by the involved Department member.

### **3-06/200.58 GUIDELINES FOR ADMINISTRATIVE REVIEWS OF BODY WORN CAMERA RECORDINGS**

The Department requires thorough documentation and multiple levels of review for all incidents resulting in an administrative documentation packet, including but not limited to:

- Use of force;

- Allegation of force;
- Foot pursuit;
- Vehicle pursuit;
- Watch Commander Service Comment Report (WCSCR);
- On-duty traffic collision;
- Civil claim; or
- Lawsuit.

Unit commanders determining appropriate and reasonable responses to possible misconduct and other deviations from established policies and procedures discovered during the review of body worn camera (BWC) recordings shall be guided by the following:

### **Administrative Documentation Packet Review**

An Administrative Documentation Packet Review is the evaluation of a BWC recording in connection with, but not limited to, use of force, allegation of force, foot pursuit, vehicle pursuit, Watch Commander Service Comment Report (WCSCR). On-duty traffic collisions, civil claims, or lawsuits should focus on the incident that is the subject of review, and not broaden into allegations of misconduct based on conduct observed that was not part of, or irrelevant to, the main inquiry. Consistent with this section, unit commanders shall evaluate the facts and circumstances surrounding the incident and exercise appropriate judgment to determine if the Department member should receive counseling, training, or a performance log entry to correct the behavior, unless the conduct observed would likely result in suspension or termination.

**Note:** Conduct observed in a BWC recording connected with an audit, inspection, or administrative review, should not become the sole basis for allegations of misconduct unrelated to the incident that is the subject of the review. However, allegations of misconduct may be appropriate when the conduct observed would likely result in suspension or termination.

When supervisory and management personnel conduct audits, inspections, or reviews of BWC recordings and discover activity that may constitute misconduct, the Department member's actions in the BWC recordings alone should not result in the initiation of an administrative investigation. Rather, the member should receive counseling, training, or a performance log entry to alert them and correct their behavior. However, the foregoing does not apply where the activity discovered would likely result in suspension or termination.

### **False and/or Misleading Statement Complaints/Allegations**

If the Department intentionally withholds a BWC recording from a Department member before they are required to submit to an interview or complete an official report, the withheld BWC recording will not be used as the sole basis for the Department's initiation

of a complaint or allegation against the Department member for making a false and/or misleading statement unless the Department can otherwise establish that the Department member made an intentionally false material statement. When considering allegations of false and/or misleading statements in any case involving a BWC recording, the Department will consider the materiality of the discrepancy and factors that are reasonably likely to affect the Department member's memory including the stress caused by the incident, the time elapsed between the incident and the interview, and fatigue.

The Department will also take into account that a BWC recording may not include the full incident, the context of the incident known or understood by the Department member at the time, the precise viewpoint or perspective of the Department member, or what the Department member heard.

**Note:** It is not the intent of the Department to initiate complaints or additional allegations of false and/or misleading statements for discrepancies between a Department member's memory of an incident and what is on the BWC recording unless there is a material discrepancy.

### **Unintentionally Recorded Personal Communications**

In the event an employee's personal communication is recorded, the personal communication will not be used to initiate an administrative investigation or used against an employee in the adjudication of a personnel complaint, or during any subsequent hearings, unless there is independent evidence or allegations of criminal conduct or misconduct that would likely result in suspension or termination that may be confirmed by the video.

### **90-Day Transition Period**

During the first 90 days a member is assigned a BWC, following completion of training, unintentional deviations in policy and procedure in the use and deployment of a BWC will be considered training issues. During the transition period, Department employees should receive non-documented counseling and training only. Performance log entries should not be generated.

**Note:** This does not apply to intentional acts to circumvent Department policy and procedure, such as intentionally not activating a BWC when required, intentionally de-activating a BWC prior to completion of an incident, or disabling or tampering with a BWC. Such acts will not be considered a training issue within the 90-day transition period.

Upon completion of the 90-day transition period, Department members will be expected to be proficient in the use and deployment of the BWC. For corrective action after the transition period, unit commanders may use counseling, training, and performance log

entries for unintentional deviations, in lieu of initiating an administrative investigation, unless an administrative investigation is deemed warranted due to the frequency of violations.

### **Demonstrably False Allegations**

Consistent with Department policy, all allegations of misconduct initiated by a member of the public must be recorded on a Watch Commander Service Comment Report (WCSCR). However, when a BWC recording clearly establishes that an allegation of misconduct is false, the watch commander may terminate the WCSCR under the authority of "Watch Commander Discretion." The watch commander should mark the box; "Watch Commander has personal knowledge the complaint is false." The watch commander shall state in the memorandum they have reviewed the video and specifically why the video is the basis for the "false complaint" disposition.

### **3-06/200.60 TRAINING**

Body worn camera (BWC) recordings may be used for training purposes. Prior to the use of any BWC video for training, any involved Department member shall be given the opportunity to object to its viewing.

### **3-06/200.63 SUPERVISOR RESPONSIBILITIES**

Supervisors assigned to a unit with body worn camera (BWC) equipped personnel shall:

- Ensure that personnel assigned BWC equipment have completed Department-required training and are familiar with applicable policies and procedures;
- Conduct periodic inspections of personnel assigned BWC equipment and ensure the BWC is properly affixed to their uniforms and fully operable;
- Ensure members upload all BWC recordings at the end of their shifts;
- Review relevant BWC recordings prior to submitting any administrative reports (e.g. use of force, allegation of force, foot pursuit, vehicle pursuit, Watch Commander Service Comment Report, on-duty traffic collision, civil claim, or lawsuit);
- Perform field audits for compliance;
- Ensure personnel report all damaged BWC equipment to the Body Worn Camera Unit (BWCU) and ensure a replacement BWC is assigned to the Department member;
- Review relevant BWC recordings and documents when performing inspections and audits;
- Conduct daily inspections of all BWC docking equipment to ensure they are active;
- Inspect any BWC devices returned as inoperative;

- Conduct briefings on expectations, use, and maintenance of the BWC equipment and debrief BWC captured incidents of training value;
- Review deviations from BWC policy and procedures and take appropriate action;
- Review supervisor inspections regarding defective equipment, systems, and ensure necessary steps are taken to have them repaired; and
- Ensure inspections of sworn personnel assigned BWC's are being conducted and document such inspections in the watch commander log.

### **3-06/200.65 UNIT COMMANDER RESPONSIBILITY**

Unit commanders are responsible for ensuring compliance with body worn camera (BWC) training, policies, and procedures by ensuring supervisors regularly monitor and inspect BWC equipment under their command.

### **3-06/200.68 BODY WORN CAMERA UNIT RESPONSIBILITIES**

The Body Worn Camera Unit (BWCU) is responsible for the Department's body worn camera (BWC) program, including all associated equipment, software, BWC smartphones and the Digital Evidence Management System (DEMS). The BWCU will be responsible for:

- Issuing all BWC equipment;
- All training related to the BWC program;
- Coordinating warranty service and maintenance through Department-approved vendor;
- Providing technical assistance;
- Acting as subject matter experts;
- Coordinating the replacement of inoperable, malfunctioning, or damaged equipment and/or systems;
- Conducting system compliance audits;
- Conducting annual command inspections;
- Any Public Records Act request as it relates to BWC video records;
- Any redaction of BWC video records for public release;
- Providing access to users of DEMS;
- Fulfilling requests for any BWC records in furtherance of any investigation;
- Providing statistical and analytical support for BWC and DEMS;
- Category 3 use of force on-scene upload, file restriction, and forensic review.

### **3-06/200.70 DIGITAL EVIDENCE MANAGEMENT SYSTEM (DEMS)**

The Digital Evidence Management System (DEMS) is the Department's official repository for body worn camera (BWC) digital evidence. The DEMS system tracking will be the official record of digital evidence chain-of-custody. The Property, Evidence and Laboratory Information Management System (PRELIMS) will continue to be the

system for tracking physical evidence, including physical media which stores digital files.

### **3-06/200.73 RETENTION**

All body worn camera (BWC) records will be stored by the cloud-based Digital Evidence Management System (DEMS) from the manufacturers for the term of the contract using the following criteria:

- All recordings shall be retained for a minimum period of three years;
- Recordings associated with an URN number and a statistical code which represents a 9 retention, shall be held for 9 years; and
- Recordings associated with an URN number and a statistical code which represents a 0 retention shall be held indefinitely.

With respect to any incident that requires administrative documentation including, but not limited to, a traffic collision, employee injury, use of force, allegation of force, Watch Commander Service Comment Report (WCSCR), vehicle pursuit, foot pursuit, civil claim, or damage to property, the involved supervisors are responsible for adding the categorization of "Administrative Hold" for the concerned BWC records in the DEMS.

### **3-06/200.75 PUBLIC RELEASE OF CRITICAL INCIDENTS**

Notwithstanding any other statutory or policy provision, the Department shall retain the sole discretion to publicly release any portion of body worn camera (BWC) recordings upon the approval of the Sheriff, or his designee, under any of the following conditions:

- The release of any portion of such BWC recordings may assist with the furtherance of an ongoing investigation; and/or
- The release of any portion of such BWC recordings may serve to dispel erroneous or inaccurate information in the public domain or may otherwise serve to educate the public without interfering with any ongoing investigation.

Nothing in this section shall be considered a waiver of any statutory provisions or otherwise require the public release of any portion of any BWC recording or other materials not released under such terms.

In response to any written request under the California Public Records Act (PRA), BWC video and audio recordings of any critical incident (defined below) shall be subject to release unless any of the following conditions apply:

- If the release of any such recording(s) would substantially interfere with an active criminal or administrative investigation, disclosure may be delayed for up to forty-five calendar days after the date the Department knew or reasonably should have known about the critical incident. If such delay is asserted, the Department

shall provide the requester with a written response specifying the basis for the delay and an estimated date for disclosure;

- If after the forty-five days it is determined the release of such recording(s) would continue to substantially interfere with an active criminal or administrative investigation, disclosure may be further delayed up to one year with written notice to the requester of the specific basis for the further delay and an estimated date for disclosure;
- Any delay beyond a total of one year must be supported by clear and convincing evidence that release of the recording(s) would substantially interfere with an active criminal or administrative investigation. The requester shall promptly be provided with a written response setting forth the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public's interest in disclosure, as well as an estimated date for release. Such delay shall be reassessed every thirty days with ongoing written notice to the requester; or
- If, at any time, it is determined that, based on the facts and circumstances depicted in any recording, that the public interest in withholding such recording clearly outweighs the public interest in disclosure due to a violation of the reasonable expectation of privacy of any subject depicted in the recording, the requester shall be promptly provided with written notice of the specific basis for the expectation of privacy and the public interest served by withholding the recording.

The Department may use redaction technology to blur or distort images or audio in order to obscure specific portions of the recording in order to protect the privacy interest of any subject depicted in the recording.

Where a recording is withheld from the public because the reasonable expectation of privacy of a subject depicted in the recording cannot be adequately protected through the use of redaction technology and that interest outweighs the public interest in disclosure, the recording (redacted or unredacted) may nonetheless be disclosed (subject to any applicable delays), upon written request, if so doing does not pose an unreasonable threat to, or endanger the lives of, the peace officers or any person depicted therein, of any of the following:

- The subject of the recording whose privacy is to be protected, or his or her authorized representative;
- The parent or legal guardian of any minor whose privacy is to be protected; or
- The heir, beneficiary, designated immediate family member or authorized legal representative or guardian of the deceased person whose privacy is to be protected;

For purposes of this policy, video and audio recordings of any critical incident shall include any of the following:

- Any incident involving the discharge of a firearm at a person by a Department member;
- Any incident involving a strike with an impact weapon or projectile to the head or neck of a person by a Department member;
- Any incident in which the use of force by a Department member against a person results in death or great bodily injury, including, but not limited to, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, or serious disfigurement; and/or
- The death of any arrestee or detainee in custody.

### **Notifications**

Absent exigent circumstances, reasonable attempts shall be made to notify the following individuals or entities prior to the release of video:

- Department members depicted in the video and/or significantly involved in the use of force;
- Subject upon whom force was used;
- If the subject upon whom force was used is deceased, the next of kin;
- If the subject upon whom force was used is a juvenile, the subject's parents or legal guardian;
- If the subject upon whom force was used is represented by legal counsel, and such representation is known to the Department;
- District Attorney's Office and/or City Attorney's Office;
- Employee unions representing Department members; and
- Other individuals or entities connected to the incident as deemed by the Department as appropriate to notify.

Dated October 15, 2019