

# Body-Worn Cameras

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## 428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of a body-worn camera (BWC) by officers of this department while in the performance of their official police duties and for the access, use, and retention of department BWC media.

The provisions of this policy, including notice, documentation, access, and retention, also apply to other portable audio/video recording devices used by members, where applicable.

The use of the body-worn camera system provides documentary evidence for criminal investigations, internal or administrative investigations, and civil litigations. Officers shall utilize body-worn cameras in accordance with the provision of this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

This policy does not apply to authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

### 428.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - To place a BWC in active mode (also called event mode). In active mode, the BWC records both video and audio.

**Body-Worn Camera (BWC)** - A device worn on an individual's person that records and stores audio and video.

**Buffering Mode or Stand-by Mode** - The BWC is on but has not been activated to record both sound and video. While in Buffering Mode, the BWC records video (without audio) in short, predetermined intervals that are retained only temporarily. However, when a BWC is activated, the interval recorded immediately prior to activation is then stored as part of the BWC media

**BWC media** - The video, audio, and images captured by department BWCs and the associated metadata.

**BWC media systems** - Any software, including web-based programs and mobile applications, used by the Department to upload/download, store, view, transfer, and otherwise maintain BWC media.

**Covert Mode** - Disables the red recording indicator light, sound indicators, and display backlight.

**Deactivate** - To place a BWC in buffering mode. Deactivate does not mean powering off the BWC.

**Digital Evidence** - BWC files, including photographs, audio recordings, and video footage captured by a BWC and stored digitally.

**Event** - A general term referring to a set of circumstances that may, but does not necessarily, correlate directly to a single public safety incident.

**Event Mode** - When the Record Start/Stop button on the BWC is activated and the camera is recording both audio and video.

**Metadata** - Report numbers, event/incident numbers, names, and other descriptors used to identify digital evidence.

**Muting** - Deactivating audio recording while video recording continues.

## **428.2 POLICY**

It is the policy of the Department to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and department accountability and transparency while also protecting the privacy of members of the public (Penal Code § 832.18).

A violation of this policy may subject the member to discipline pursuant to BP/AP 7365 Discipline and Dismissals - Classified Employees (see the Personnel Complaints Policy).

## **428.3 MEMBER PRIVACY EXPECTATION**

All recordings made by members on any Department-issued device at any time, and any recording made while acting in an official capacity for this Department, regardless of the ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

## **428.4 RESPONSIBILITIES**

### **428.4.1 BWC COORDINATOR RESPONSIBILITIES**

The Chief of Police & Campus Safety or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of BWC devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing, and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure the availability of operable BWC devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting, and copying recordings, and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

The coordinator should also:

- (a) Serve as a liaison between the Department and the BWC manufacturer/distributor and any third-party media storage vendor.
- (b) Develop inventory procedures for issuing and tracking BWC equipment.
- (c) Assist with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWCs.
  - 1. All equipment and system malfunctions and their resolutions should be documented, and maintenance and repair records should be maintained for all BWCs.
- (d) Manage BWC media systems so that:
  - 1. Access is limited to the minimum necessary authorized users and user privileges are restricted to those necessary for the member to conduct assigned department duties.
  - 2. Security requirements, such as two-factor authentication and appropriate password parameters, are in place for user credentials.
- (e) Develop and update BWC training for members who are assigned a BWC or given access to BWC media systems.
- (f) Assist with providing the public with notice of the department's use of BWCs (e.g., posting on the department website or social media pages) and gaining insight into community expectations regarding BWC use.
- (g) Coordinate with the Custodian of Records to (see the Records Bureau and Records Maintenance and Release policies):
  - 1. Determine and apply proper retention periods to BWC media. Agency legal counsel should be consulted in determining retention periods.
  - 2. Develop procedures for the appropriate release of BWC media.

### 428.4.2 MEMBER RESPONSIBILITIES

Every member issued a BWC is responsible for its proper use, safekeeping, and maintenance (Penal Code § 832.18).

Prior to going into service, officers will be responsible for making sure that they are equipped with a BWC issued by the Department, and that the BWC is in good working order, completely charged, and displaying the correct date and time. If the BWC is not in working order or the officer becomes aware of a malfunction at any time, the officer shall promptly report the failure to a supervisor and obtain a functioning device as soon as reasonably practicable.

When in service and on patrol, the BWC shall be powered on and in buffering mode, except in circumstances where recording is prohibited or not required as described in this policy. In certain tactical situations, officers may temporarily disable the visual LED and vibration feedback of the BWC by placing the device in Covert Mode.

When not in use and at the conclusion of each shift, the BWC shall be stored in the designated transfer station. Officers shall ensure the BWC is properly seated at the transfer station to allow for proper uploading, charging, and updating.

Officers shall wear the BWC on their uniform above the midline of the torso to facilitate an optimum recording field of view.

- (a) Officers must wear the BWC on the outermost garment and must ensure the recording field of view is not obstructed by a jacket, inclement weather gear, external plate carrier, or any other object.
- (b) It is recognized that in tense, rapidly unfolding exigent circumstances, where there is an imminent threat to the safety of others and time is of the essence, there may not be sufficient time to attach a BWC to the outermost garment.

No officer shall remove, dismantle, or tamper with any hardware or software component of the BWC.

#### 428.4.3 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure officers utilize the BWC device according to policy guidelines.

Supervisors shall ensure the data from a BWC device is downloaded as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death, or other serious incident (Penal Code § 832.18).

When evaluating a use of force incident, supervisors shall review BWC files prior to completing the supervisor section of the Use of Force Report.

Supervisors may have the ability to immediately resolve citizen complaints by reviewing BWC files. When a complaint is resolved with no further action needed, supervisors shall add the additional category of "Citizen Complaint" to the BWC file and make appropriate notes.

#### 428.5 BODY WORN CAMERA USE

The following guidelines apply to the use of BWCs:

- (a) Only department-issued BWCs should be used. Members are prohibited from using any other BWC without the express consent of the Chief of Police & Campus Safety or the authorized designee.
- (b) BWCs should only be used by the member or members to whom it was issued unless otherwise authorized by a supervisor.
- (c) The use of department-issued BWCs shall be strictly limited to department-related activities (Penal Code § 832.18).
- (d) Members shall not use BWCs or BWC media systems for which they have not received prior authorization and appropriate training.

- (e) Members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member to a supervisor or the Chief of Police & Campus Safety.

#### 428.5.1 REQUIRED USE OF BODY-WORN CAMERAS

This policy is not intended to describe every possible situation in which the use of a BWC may be appropriate. This policy also recognizes the rare instances in which there may not be sufficient time to activate the BWC recording. Nevertheless, officers should activate the BWC any time the officer believes it would be appropriate or valuable to record an incident.

Unless it is unsafe or impractical to do so, and absent any impeding mechanical issues, the BWC shall be activated prior to or as soon as practicable during any of the following situations:

- (a) All enforcement and investigative contacts including, but not limited to:
  1. Dispatched calls for service
  2. Self-initiated activities
  3. Traffic stops and stopped vehicles
  4. Pedestrian stops
- (b) Any contact, regardless of context, that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- (c) When taking or attempting to take a person into custody (e.g. arrests, protective custodies, etc.).
- (d) While transporting prisoners, detained subjects, and anyone under criminal investigation.
- (e) Service of search or arrest warrants.
- (f) While maintaining peace during a protest, rally, or assembly.
- (g) While engaged in Code-3 driving, including any passenger officers.
- (h) When obtaining victim and witness statements (when practicable). This policy applies equally to incidents where an on-duty or off-duty law enforcement official is involved as a victim, witness, or suspect.
- (i) When investigating an officer-involved collision.
- (j) Upon being involved in a traffic collision, when reasonably able to do so.

It shall be deemed a violation of this policy for an officer to intentionally fail to activate a BWC. It shall also be deemed a violation of this policy for an officer to intentionally terminate a BWC recording in order to conceal the committing of a violation of law or Department policy.

At no time are officers expected to jeopardize their own safety in order to activate a BWC. Officer safety and the safety of the public shall be the primary considerations when contacting citizens and conducting enforcement stops, not the ability to record an event. However, the BWC should be activated in situations described above as soon as reasonably practicable.

If a member attempts to activate their BWC but the BWC fails to record an event, the member should notify a supervisor as soon as practicable.

#### 428.5.2 NON-REQUIRED USE OF BODY-WORN CAMERAS

There are circumstances when a BWC recording may not be necessary or appropriate. None of these circumstances preclude the use of the BWC during enforcement encounters when reasonable suspicion exists that a crime has been, is being, or may be committed, or there is a likelihood of force being used.

Members should remain sensitive to the dignity of individuals being recorded and should exercise sound discretion with respect to privacy concerns.

When responding to a place where individuals have an expectation of privacy (e.g., private residences, medical or mental health facilities, restrooms) or to a sensitive situation (e.g., individuals partially or fully unclothed), members are permitted to mute or deactivate their BWC if it reasonably appears that the privacy concern outweighs any legitimate department interest in recording the event. Members may also not activate, mute, or deactivate their BWC in the following circumstances:

- (a) During casual or informal contacts with members of the public that are not part of or related to law enforcement functions unless an individual becomes hostile or adversarial.
- (b) During private conversations with other members or emergency responders.
- (c) Discussion of case facts or investigative tactics or strategy outside the presence of all involved parties, including any victim, witness, or suspect. It is the officer's responsibility to reactivate the recording when the purpose of the deactivation or muting has passed.
- (d)
- (e) A potential victim or witness requests not to be video recorded or desires anonymity and the situation is not confrontational.
- (f) Interactions with undercover officers or confidential informants.
- (g) Strip searches.
- (h) Public or private locker rooms, changing rooms, or restrooms, unless the use of a BWC is required as stated in this policy.
- (i) Doctor and lawyer offices, unless the use of a BWC is required as stated in this policy.
- (j) Medical or hospital facilities, unless the use of a BWC is required as stated in this policy.
- (k) Other places where individuals unrelated to an investigation are present and would have a reasonable expectation of privacy, unless the use of a BWC is required as stated in this policy.

- (l) Any situation involving a Department member receiving medical attention, either in the field or at a medical facility, as employee medical confidentiality is paramount.
- (m) Routine administrative activities of the Department that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the Department has a duty to keep secure (i.e., criminal justice information).
- (n) Areas within the department facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, break rooms) unless responding to a call for service or conducting an investigation.
- (o) Conversations of other members without their knowledge.
- (p) When a member is taking an authorized break or otherwise engaged in personal activities.
- (q) In a courtroom unless responding to a call for service or emergency situation.

Once the BWC is activated, officers should choose to mute rather than deactivate BWCs when practicable. Deactivation should only be used when muting the BWC will not accomplish the level of privacy necessary for the situation.

#### 428.5.3 CESSATION OF RECORDING

Unless otherwise authorized by this policy, BWCs shall remain activated until the call for service or law enforcement-related function has concluded. A member may cease recording if they are simply waiting for a tow truck or a family member to arrive, or in other similar situations.

Officers should verbally articulate on camera audio the specific reason for deactivating or muting the BWC prior to doing so. In the event an officer fails to verbalize the reason for deactivating or muting the BWC, the officer shall indicate the reason on camera audio upon reactivation.

Officers shall deactivate the BWC when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g. spouse, attorney, police peer counselor, labor representative, minister, etc.). At the conclusion of the private conversation, if the need for recording the police encounter still exists, officers shall reactivate the recorder.

Officers shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor, or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

#### 428.5.4 PROHIBITED USE OF BODY-WORN CAMERAS

Officers are prohibited from using Department-issued BWCs and recorded media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Officers are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with Department-issued or personally-owned BWCs. Officers shall not duplicate or distribute such recordings, except for authorized and legitimate Department business purposes. All such recordings shall be retained at the Department.

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Officers are prohibited from using personally-owned recording devices while on-duty without the express consent of the supervisor on duty. Any officer who uses a personally-owned recorder for Department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

#### 428.5.5 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### 428.5.6 DOCUMENTATION

Members are encouraged to provide narration while using a BWC when it would be useful to provide context or clarification of the events being recorded. However, a BWC recording should not be used as a reason to write a less detailed report, nor should a "refer to video" comment be used in any report in lieu of a fully detailed description.

Officers shall document the existence, or absence, of a BWC recording in all reports or other official records of a contact (e.g. notations on citations and field interview cards) and:

- (a) To the extent practicable and relevant, the identity of individuals appearing in the BWC media.
- (b) An explanation of why BWC media is unavailable including any malfunction, damage, or battery issue that resulted in the failure of the BWC to capture all or part of the event.
- (c) Any exigency or other circumstances that prevented the member from immediately activating the recording at the beginning of the event.
- (d) Any period of the event in which the member deactivated or muted their BWC and the reason for such action.

#### 428.6 DOWNLOADING BWC MEDIA

Unless otherwise authorized by a supervisor, all media from a member's BWC should be properly downloaded and tagged before the end of their shift. BWC media related to a serious or high-profile event (e.g., search for a missing child, active shooter situation) should be downloaded and tagged as soon as practicable upon returning to the Department (Penal Code § 832.18).

Following an officer involved shooting or death or other event deemed necessary, a supervisor should take possession of the BWC for each member present and download and tag the BWC media if the storage system does not have automatic downloading capacity (Penal Code § 832.18).

## 428.6.1 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag, or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag, or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil, or administrative matters.
- (b) A complainant, victim, or witness has requested non-disclosure.
- (c) A complainant, victim, or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.
- (g) Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

BWC media should be tagged upon downloading or, if capabilities permit tagging in the field, as close to the time of the event as possible. If more than one event type applies to BWC media, it should be tagged with each event type. If BWC media can only be tagged with a single event type, the media should be tagged using the event type with the longest retention period.

BWC media depicting sensitive circumstances or events should be tagged as restricted. BWC media should be flagged for supervisor review when it pertains to a significant event such as:

- (a) An incident that is the basis of a formal or informal complaint or is likely to result in a complaint.
- (b) When a member has sustained a serious injury or a line-of-duty death has occurred.
- (c) When a firearm discharge or use of force incident has occurred.
- (d) An event that has attracted or is likely to attract significant media attention.

## **428.7 BWC MEDIA**

All BWC media is the sole property of the Department (Penal Code § 832.18). Members shall have no expectation of privacy or ownership interest in the content of BWC media.

All BWC media shall be stored and transferred in a manner that is physically and digitally secure with appropriate safeguards to prevent unauthorized modification, use, release, or transfer. Contracts with any third-party vendors for the storage of BWC media should include provisions specifying that all BWC media remains the property of the Department and shall not be used by the vendor for any purpose without explicit approval of the Chief of Police & Campus Safety or the authorized designee (Penal Code § 832.18).

Members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted in this policy without the express consent of the Chief of Police & Campus Safety or the authorized designee (Penal Code § 832.18).

BWC media systems shall only be accessed by authorized members using the member's own login credentials. BWC files shall only be reviewed on Department-issued and owned devices. The system will automatically timestamp each and every access to records.

Although data captured by the BWC is not considered Criminal Offender Record Information (CORI), it shall be treated in the same manner as CORI data. All access to the system is logged and subject to audit at any time. Access to the data from the system is permitted on a right-to-know and need-to-know basis. Members authorized under this policy may review video according to the provisions of this policy.

BWC media tagged as restricted should only be accessible by those designated by the Chief of Police & Campus Safety or the authorized designee.

BWC media shall only be accessed and viewed for legitimate department-related purposes in accordance with this policy.

#### 428.7.1 OFFICER REVIEW OF BODY-WORN CAMERA FILES

Once uploaded, officers may review their own BWC files as they relate to:

- (a) Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports.
- (b) Prior to courtroom testimony or for courtroom presentation.
- (c) Providing a statement pursuant to an administrative investigation, including officer-involved shooting investigations and personnel complaints. Officers are encouraged to consult with legal counsel and may review relevant BWC data prior to providing an official statement pursuant to an administrative inquiry.

#### 428.7.2 OTHER REVIEW OF BODY-WORN CAMERA FILES

BWC recordings may be reviewed by the following:

- (a) Any employee (and the employee's legal counsel) who is participating in, as a subject or witness, an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation, if the employee's image or voice was captured on the BWC or the employee was present during the incident.
- (b) Investigators when the BWC media pertains to their assigned cases.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in related cases.
- (d) By media personnel with permission from the Chief of Police or designee.

BWC recordings may be played for the purposes of training with approval from the Chief of Police & Campus Safety. If an involved officer objects to the playing of a BWC recording, the officer's objection will be submitted to the Chief of Police & Campus Safety to determine if the training

value outweighs the officer's objection to have others review the video. When practicable, sensitive issues depicted in BWC media should be redacted before being used for training.

In no event shall any recording be used or reviewed for the purpose of officer ridicule or embarrassing an employee.

The Custodian of Records may access BWC media when necessary to conduct department-related duties.

The BWC coordinator may access BWC media and the BWC media system as needed to ensure the system is functioning properly, provide troubleshooting assistance, conduct audits, and fulfill other responsibilities related to their role.

### 428.7.3 PUBLIC ACCESS

Unless disclosure is required by law or a court order, BWC media should not be released to the public if it unreasonably violates a person's privacy or sense of dignity or depicts the interior of:

- (a) A private residence.
- (b) A facility that offers health care, mental health or substance abuse treatment, or social services.
- (c) Any other building in which public access is restricted or which implicates heightened security concerns.

Requests for the release of BWC recordings shall be processed in accordance with the Records Maintenance and Release Policy. The Custodian of Records should review BWC media before public release.

### 428.7.4 SUPERVISORY REVIEW OF BODY-WORN CAMERA FILES

Supervisors have the authority to review BWC recordings in order to approve related incident reports, review use of force incidents, or investigate complaints against Department members.

The Chief of Police & Campus Safety and Deputy Chief or Lieutenant have the authority to randomly view officers' BWC recordings to audit officer performance and to ensure the BWC system is operating properly and the cameras are being used in accordance with this policy. It shall be deemed a violation of this policy for a supervisor to review BWC files for the sole purpose of searching for violations of Department policy or law not related to a specific complaint or incident.

The Chief of Police & Campus Safety and Deputy Chief or Lieutenant may each randomly select and review one recording per officer each month. If the selected video was an accidental recording, another video may be randomly selected and reviewed. Any system deficiencies will be documented and remedied. Any performance issues will be discussed with the officer. Violations of policy will be handled pursuant to the Evaluation of Employees and Personnel Complaints policies, as applicable.

Specific and targeted audits for cause are not allowed unless well-founded suspicion has been documented specifically naming an officer or officers who are allegedly violating policy

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or performance standards. The Chief of Police & Campus Safety shall be notified and the investigation will be handled pursuant to the Personnel Complaints policy.

### **428.8 COPYING PROCEDURES**

Unauthorized use, duplication, or distribution of digital evidence is strictly prohibited. It is prohibited by law for any member of this Department to share any photographic image of a deceased person for any purpose other than official law enforcement business (Penal Code § 647.9). Members shall not make copies of any digital evidence for personal use and are prohibited from using a secondary device (e.g., phone camera) to record BWC files, unless approved by a supervisor for official use only.

BWC files stored in the BWC media system should primarily be shared electronically. Only a supervisor may save a BWC file from the BWC media system for the purpose of electronic dissemination. Physical copies of a BWC file may be made on a case-by-case basis (e.g., classroom presentations) with approval of the Chief of Police & Campus Safety or designee.

### **428.9 RETENTION OF BWC MEDIA**

Non-evidentiary BWC media should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. Non-evidentiary media may be kept for more than 60 days for availability in case of a civilian complaint and to preserve transparency (Penal Code § 832.18).

Unless circumstances justify continued retention, BWC media should be permanently deleted upon the expiration of the retention period in a way that it cannot be retrieved. BWC media shall not otherwise be deleted by any person without the authorization of the Chief of Police & Campus Safety or the authorized designee.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

#### **428.9.1 EVIDENTIARY BWC MEDIA**

BWC media relevant to a criminal prosecution should be exported from the BWC media system and securely transferred to digital evidence storage according to established department procedures. Evidentiary BWC media is subject to the same laws, policies, and procedures as all other evidence, including chain of custody, accessibility, and retention periods (see the Property and Evidence Policy).

Evidentiary BWC media should be retained for a minimum of two years under the following circumstances (Penal Code § 832.18):

- (a) The recording is of an incident involving the use of force by an officer or an officer-involved shooting.
- (b) The recording is of an incident that leads to the detention or arrest of an individual.
- (c) The recording is relevant to a formal or informal complaint against an officer or the Mt. San Antonio College Police & Campus Safety Department.

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Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

### **428.10 TRAINING**

The BWC coordinator should ensure that each member issued a BWC receives initial training before use. Training should include:

- (a) Proper use of the BWC device and accessories.
- (b) When BWC activation is required, permitted, and prohibited.
- (c) How to respond to an individual's request to stop recording.
- (d) Proper use of the BWC media systems, including downloading and tagging procedures.
- (e) Security procedures for BWC media, including appropriate access and use.

Members who are not issued a BWC but who have access to BWC media systems shall receive training on the BWC media system, including appropriate access, use, and security procedures.