

# Austin Police Department General Orders

## 117 Critical Incident – Public Release

### 117.1 PURPOSE

This General Order reflects the Austin Police Department's (Department) commitment to fostering greater public trust by increasing transparency with respect to the operations of the Austin Police Department and the community it serves. This policy will establish criteria for when video footage of certain police "critical incidents" as defined below, will be released to the public. Our community has an undeniable interest in being informed, in a timely fashion and based on the most accurate information available, about incidents where officers use lethal force, or where the use of force by the police results in the serious bodily injury of another.

This General Order is intended to balance important interests, including: the public's interest in transparency and police accountability, the necessity of preserving the integrity of criminal and administrative investigations, and the privacy interests of the individuals depicted in such videos (including the police officers involved, any victims, witnesses, or bystanders who may be on the video, and the person upon whom force is used). This policy creates a presumption of release pursuant to a law enforcement purpose unless the chief determines that a delay is needed to address investigative, prosecutorial, or privacy interests.

In recognizing that a video may not tell the whole story, the Department will also provide the necessary context when making video publicly available so the public has the most accurate picture of what occurred based on the information known at the time of release.

### 117.2 POLICY

It is the policy of the Austin Police Department that video evidence in the Department's possession of critical incidents involving APD be released to the public within 60 days of the incident. Such video evidence will be made available to the public prior to the final adjudication of all criminal matters and prior to the conclusion of all related administrative investigations. For the purpose of this policy, a law enforcement purpose may include solving a crime, locating a suspect or a witness, or enhancing police-community relations. This release shall consist of relevant video imagery that depicts the actions and events leading up to and including the critical incident. Relevant video imagery is video and accompanying audio footage, which may include relevant portions of 911 calls, Combined Transportation, Emergency & Communication Center (CTECC) dispatch recordings, and the Department's radio calls, that are typically considered by the Chief of Police and criminal prosecutors to determine the propriety of an officer's conduct during a critical incident. The release of video shall be accompanied by additional information to provide context based on the evidence available at the time of release.

#### 117.2.1 CRITICAL INCIDENTS

For purposes of this General Order, "critical incidents" are defined as:

- (a) Officer-involved shootings, including unintentional discharge while in the course of duty or in response to a call, regardless of whether a person was hit by gunfire and even if no allegation of misconduct is made;
- (b) A use of force resulting in death or serious bodily injury as defined by Section 1.07, Texas Penal Code;
- (c) All deaths while an arrestee/detainee is in the custodial care of the Department; or
- (d) Any other police encounter where the Chief of Police determines release of video furthers a law enforcement purpose.
- (e) This General Order does not include or apply to officer-involved shootings of an animal, an unintentional discharge during pre-shift equipment checks, or during training/qualifications on the firing range.

### 117.2.2 RELEASE TIMELINES

The Department will post and maintain on its website relevant video imagery of “critical incidents” pursuant to the following timelines:

- (a) The Department will post the relevant video imagery on a publicly accessible website within 60 days of the incident
- (b) If the Chief of Police determines that no video will be released following a critical incident, then the Department will post a statement summarizing the reasons for the decision within 45 days of the incident with an explanation as to whether or not an opportunity for release exists/or is possible on a future date
- (c) Posted materials will remain on the website for at least two years after the date of the corresponding release posting.

### 117.2.3 VIDEO SOURCES

The sources of video that may be released pursuant to this policy include, but are not limited to, body-worn camera video (BWC), digital in-car video (DMAV), or other video captured by the Department, and video captured by third parties that is in the Department's possession.

### 117.2.4 PRIVACY PROTECTIONS

Video will not be released where prohibited by law or court order. Further, consistent with the protections afforded juveniles and the victims of certain crimes, video imagery shall be redacted or edited to the extent necessary to ensure that the identity of said individual(s) is protected. Where the video cannot be sufficiently redacted or edited to protect the person's identity, it will be withheld. In addition, video may also be redacted or edited to protect the privacy interests of other individuals who appear in the video. In each instance, such redaction may include removing sound or blurring of faces and other images that would specifically identify involved individuals, sensitive locations, or reveal legally protected information. Further, where possible, such redaction or editing shall not compromise the depiction of what occurred during the incident.

### 117.2.5 DELAYED RELEASE

- (a) There may be circumstances under which the release of such video must be delayed to protect one or more of the following:
  1. Safety of the involved individuals, including officers, witnesses, bystanders, or other third parties
  2. Integrity of an active investigation (including criminal or administrative) or criminal prosecution
  3. Confidential sources or investigative techniques
  4. Constitutional rights of an accused
- (b) If the Chief of Police determines that no video will be released within 60 days following a critical incident, then the Department will post a statement summarizing the reasons for the decision within 45 days of the incident.
  1. These reasons may not be general; they must have a factual basis and be specific to the individual case. For example, investigators have identified but not yet been able to interview a key witness to the incident.
  2. Except where release is prohibited by law, any decision to delay release shall be reassessed every 30 days thereafter, with any continued justification for the delay. The video imagery in question shall be released as soon as the reason (s) for the delay has been resolved to the satisfaction of the Chief of Police.

### 117.2.6 NOTIFICATIONS & CONSULTATIONS

Absent exigent circumstances, reasonable attempts shall be made to notify and, where appropriate, consult with the following individuals or entities at least forty-eight hours prior to the release of video imagery:

- (a) Officers depicted in the video and/or significantly involved in the use of force

- (b) Subject upon whom force was used
- (c) If the subject is deceased, the next of kin will be notified.
- (d) If the subject is a juvenile, the subject's parents or legal guardian will be notified.
- (e) If the subject is represented by legal counsel, that representative will be notified.
- (f) District Attorney's Office and the City Attorney's Office
- (g) Office of Police Oversight
- (h) Other individuals or entities connected to the incident as deemed appropriate.

APD shall consult and seek feedback from the Office of Police Oversight during the production of the video for public release.

#### 117.2.7 RELEASE-LIMITED WAIVER

The release of any specific video imagery does not waive the Department's right to withhold other video imagery or investigative materials in the same case or any other case, as permitted by law. This policy is not intended to displace or supersede any legal right or remedy available to any person or entity, and it is also not intended to prevent or hinder compliance by the Department with respect to any legal disclosure requirements, including but not limited to, any court order or disclosure provisions of the Texas Public Information Act or the Texas Occupations Code, Chapter 1701, Subchapter N.