

INTRADEPARTMENTAL CORRESPONDENCE

August 25, 2020
14.5

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: CRITICAL INCIDENT VIDEO RELEASE POLICY – REVISED

RECOMMENDED ACTION

That the Board of Police Commissioners REVIEW and APPROVE the revised policy pertaining to the release of critical incident videos.

DISCUSSION

The attached Administrative Order revises Department policy regarding critical incident video release as it relates to the particular incidents for which video imagery is released, as well as to include procedures when handling late discoveries.

The revised policy amends Department Manual Section 1/420.55, *Critical Incident Video Release Policy*.

Should you have any questions regarding this matter, please contact Director Lizabeth Rhodes, Office of Constitutional Policing and Policy, at (213) 486-7630.

Respectfully,



MICHEL R. MOORE
Chief of Police

Attachments

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO.

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON

SUBJECT: CRITICAL INCIDENT VIDEO RELEASE POLICY – REVISED

PURPOSE: This Order revises the critical incident video release policy as it relates to the particular incidents for which video imagery is released, as well as to include procedures when handling late discoveries.

PROCEDURE: CRITICAL INCIDENT VIDEO RELEASE POLICY – REVISED.

Department Manual Section 1/420.55, *Critical Incident Video Release Policy*, has been revised. Attached is the revised Department Manual Section with the revisions indicated in italics.

AMENDMENT: Department Manual Section 1/420.55, *Critical Incident Video Release Policy*, has been revised and is attached.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachment

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420.55 CRITICAL INCIDENT VIDEO RELEASE POLICY. It is the policy of the Los Angeles Police Department (LAPD) that video evidence in the Department's possession of "Critical Incidents" involving LAPD officers be released to the public within 45 days of the incident. The Board of Police Commissioners (Commission) or the Chief of Police (COP) may determine that earlier release is in the public interest. 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 that is typically considered by the COP, Commission, and criminal prosecutors to determine the propriety of an officer's conduct during such "Critical Incidents." The release of video shall be accompanied by additional information to provide context based on the evidence available at the time of release.

Critical Incidents. This policy applies to video imagery concerning the following types of incidents:

- Officer-involved shootings, regardless of whether a person was hit by gunfire (this does not include unintentional discharges or officer-involved animal shootings);
- A use of force resulting in death or serious bodily injury requiring hospitalization;
- *Any other police encounter where the Commission or the COP determines release of video is in the public's interest;*
- All deaths while an arrestee/detainee is in the custodial care of the Department unless all of the following *conditions exist*:
 - *The Los Angeles County Coroner makes a preliminary determination that the death was caused by natural, accidental or undetermined means;*
 - *The incident did not involve a use of force or evidence of foul play; .*
 - *There is no misconduct which would rise to the level of negligence or risk management issues associated with the incident to include: commission of a criminal offense, neglect of duty, violation of Department policies, rules, or procedures, or conduct which may tend to reflect unfavorably upon the employee or the Department;*
 - *The investigation reveals that there were no violations of Department policies or procedures which directly led to the death;*
 - *The toxicology report supports the Coroner's determination; and,*
 - *The investigation reveals no problematic evidence or substantially conflicting witness statements regarding the incident*

Video Sources. The sources of video that may be released pursuant to this policy includes, but are not limited to, body-worn camera video, digital in-car video, police facility surveillance video, video captured by the Department's use of a small Unmanned *Aircraft* System, and video captured by third parties that is in the Department's possession.

Privacy Protections. Video shall 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 such individual(s) is protected. Where the video cannot be sufficiently redacted or

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edited to protect the person's identity, it shall 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.

Delayed Release. There may be circumstances under which the release of such video must be delayed to protect one or more of the following:

- Safety of the involved individuals, including officers, witnesses, bystanders, or other third parties;
- Integrity of an active investigation (including criminal or administrative);
- Confidential sources or investigative techniques; or,
- Constitutional rights of an accused.

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. The delay of the release of video, in accordance with this policy, shall be made pursuant only to the unanimous decision of the COP and the Commission's *Executive Committee* for video release. In the absence of an unanimous decision supporting a delay, the video imagery shall be released. Any decision to permit a delay shall be re-assessed every 14 days. If the delay in the release continues for more than 28 days, the matter shall be placed on the next regularly-scheduled Commission meeting for consideration of the continued justification for delay, as well the as anticipated time frame for release. The Commission shall make the decision to release or continue the delay. The video imagery in question shall be released as soon as the reason for delay has been resolved.

Late Discovery of Critical Incidents. *In circumstances when the Department was not aware that there was an incident which met the criteria of a "Critical Incident" until 16 or more days after the incident occurred, the release of video evidence of that incident shall be within 30 days of the date when it was determined that the incident met the criteria.*

Notifications. Absent exigent circumstances, reasonable attempts shall be made to notify the following individuals or entities 48 hours prior to the release of video imagery:

- Officers depicted in the video and/or significantly involved in the use of force;
- The subject upon whom force was used;
 - If the subject is deceased, the next of kin will be notified.
 - If the subject is a juvenile, the subject's parents or legal guardian will be notified.
 - If the subject is known by the Department to be represented by legal counsel, that representative will be notified.
- The District Attorney's Office and City Attorney's Office;

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- The Los Angeles Police Protective League; and,
- Other individuals or entities connected to the incident as deemed appropriate.

Posting. All released video shall remain posted on the Department's designated website until 12 months after the Commission adjudicates the incident.

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 California Public Records Act.