

## DRAFT Video Release Ordinance for the City of Detroit

Version 6 – 12/18/2024

### **I. PURPOSE.**

This ordinance will provide direction to officials and agencies of the City of Detroit (“City”) with respect to the public release by the City of video and audio recordings and certain reports that relate to certain types of incidents involving the Detroit Police Department (“DPD”) members and shall prescribe procedures under which requests can be made to delay temporarily the release of those items to the public.

### **II. ORDINANCE CONSIDERATIONS.**

This ordinance is intended to strike a balance between competing and sometimes conflicting interests of

1. the public in obtaining timely access to video and audio recordings and reports particularly those pertaining to certain incidents involving the use of force by police officers;
2. individuals who are the subject of the police action;
3. units of local, state and federal government (including agencies of the City) involved in investigating or otherwise addressing the consequences of those incidents.

Government institutions and officials with appropriate jurisdiction may have an interest in temporarily delaying the release of such information to the public in circumstances where it might compromise their efforts to address these incidents, including (but not limited to) criminal, disciplinary or other types of investigations. Those interests may include a desire to avoid instances where early release of information could cause fact witnesses, whether civilian or otherwise, intentionally or inadvertently to conform their recollections of events to fit what they see in a video, hear in an audio recording, or read in a report. In addition, certain individuals, such as persons injured in these incidents or their families, may also have interests concerning the release of these items. Despite those interests, however, the people of the City have an undeniable, and in some cases paramount, interest in being informed, in a timely fashion and based on the most accurate information possible, about how their police department conducts its business, especially where the use of force by the police results in the death of, or bodily harm to, a civilian.

This ordinance attempts to balance those competing interests by permitting specifically interested entities to request a temporary delay in the public release of recordings or reports in order to protect the integrity and effectiveness of their investigations, while assuring that these materials will become available to the public within a limited and certain period of time. The goal of this ordinance is to increase transparency with respect to the operations of the DPD, and in doing so to foster increased trust and communication between the police department and the community whom it serves.

### III. SCOPE.

A. **Incidents.** This ordinance encompasses incidences where a DPD member has employed Use of Force or any other action that has or could have reasonably resulted in death or bodily harm, even if no allegation of misconduct is made, including but not limited to:

1. any physical strike of instrumental contact with a person;
2. any intentional attempted physical strike or instrumental contact that does not take effect;
3. any significant physical contact that restricts the movement of a person;
4. any discharge of a firearm or other lethal/potentially lethal weapon;
5. any discharge of a taser, Bolawrap, Pepperballs, glass breakers, sound cannons, water cannons, or any other less-than-lethal device;
6. any discharge of chemical spray;
7. choke holds or hard hands;
8. the taking of a subject to the ground;
9. the deployment of a canine; and/or
10. all police chases.

“Bodily harm” means any injury (impairment of physical condition and/or pain) that is serious enough to require treatment as minor as basic field first aid up to treatment in a hospital or similar facility, including those facilities located in a correctional facility. This applies whether or not the treatment is offered or accepted.

(Referred to hereinafter as the “Incident.”)

B. **Recordings and Reports.** This ordinance applies to the following items that relate to any Incident:

1. all unredacted video and audio recordings relating to the Incident, including recordings of 911 calls, dispatch recordings, DPD radio calls, video and audio from DPD dash or body cameras, videos from DPD or surveillance equipment, any video or audio recordings made using cameras or equipment owned or used by any City entity, as well as any video or audio recordings made using cameras or equipment not owned or controlled by the City that come into the possession or control of DPD, the Board of Police Commissioners (“BOPC”), the Office of the Chief Investigator (“OCI”), or any City of Detroit department; and
2. all unredacted arrest reports, original case incident reports, Use of Force/Detainee Injury Report (UF-002), Supervisor Investigation Reports (UF-002a), officer battery report, any tactical response reports, all reports generated by DPD, as well as any reports not owned or generated by DPD that come into the possession or control of

DPD, the Board of Police Commissioners ("BOPC"), the Office of the Chief Investigator ("OCI"), or any City of Detroit department. Out of respect for the family's privacy, autopsy reports will be released to the family and with the permission of the family released to the public.

(Individually and collectively referred to hereinafter as "Information.")

#### **IV. RELEASE OF INFORMATION**

- A. **Timing of Release of Information.** Any Information covered by this ordinance shall be released to the public no more than 7 calendar days from the date and time of the Incident unless a request is made to delay the release of any or all the Information pursuant to this ordinance. Where any video or audio recording of an Incident covered by this ordinance made using cameras or equipment not owned or controlled by the City comes into the possession of the City after the date of that Incident, it shall be released to the public no more than 7 calendar days after it comes into the possession of the City. The City shall make every effort to provide for the release of such recordings simultaneously with the release of other Information related to the Incident; but such efforts shall not cause the delay in release of information in the City's possession beyond 7 calendar days.
- B. **Requests to Delay Release.** Upon written request from a government entity specified herein, the City will delay release of Information for a period not to exceed 30 calendar days. Any such request shall be made in writing and shall be directed to the BOPC Attorney, City Council Director of Legislative Policy Division, and City Corporation Counsel. Such a request may be made by the United States Attorney for the Eastern District of Michigan, the Wayne County Prosecutor, the Attorney General of Michigan, BOPC, or any other federal, state, county or local law enforcement agency. Any request must set forth with specificity the length of the delay requested (not to exceed 30 calendar days) and shall set forth as reasons supporting the requested delay, 1 or more of the factors listed in Michigan Court Rule 8.119 (Court Records and Reports). In addition, any such request must identify the specific item(s) sought to be temporarily withheld from release. The written request to delay release will itself be released to the public immediately upon receipt using a portal or website used for the distribution of Information subject to this ordinance. The City will not honor any further requests to delay release beyond the initial request, and will not honor a request for a delay of release that exceeds 30 calendar days.
- C. **Early Release of Information.** Where doing so will not compromise an ongoing investigation, any Information covered by this ordinance may be released before the expiration of 7 calendar days, and may occur as soon as possible after the Incident.

- D. **Manner of Release of Information.** The City shall create and maintain a publicly accessible website, dropbox or similar portal dedicated to the posting of Information covered by this ordinance. Such website shall be controlled and managed by the Board of Police Commissioners as the oversight and transparency body.

#### **V. NOTICE TO AFFECTED PARTIES.**

Prior to the release of Information, DPD will attempt to notify any person who was the subject of the police action and is depicted in any video recording, or if that person is deceased or otherwise unavailable, that person's legal representative and/or next of kin, that the video recording and any related Information will be released and the date of release. DPD with a representative from BOPC present will also offer to promptly show such individuals (and/or, if applicable, their legal representative and/or next of kin) the video recording(s) in which that person was depicted, and to play any related audio, in advance of its public release, and to answer questions and provide other information concerning the Incident and the status of any investigation of the Incident, to the extent that information can be provided without compromising any investigation.

#### **VI. ONGOING REVIEW.**

The provisions of this ordinance should be reviewed by the City after it has been in effect for one year (or sooner if appropriate) in order to determine whether experience with its implementation and application supports revision of the ordinance with respect to any issue, including (but not limited to) whether the 7-day period and the 30-day extension it provides for may be shortened or whether its scope may be expanded to cover additional types of incidents.

#### **VII. LEGAL PROCESS.**

This ordinance is intended solely to govern the conduct of the City and its agencies and officials with respect to the matters it covers. It is not intended to displace or supersede any legal right or remedy available to any person or entity. It is also not intended to prevent or hinder compliance by the City with respect to any legal obligations, including (but not limited to):

1. any order of court;
2. any obligation to redact identifying or other information from any item covered by this ordinance before its release to the public; or
3. any obligations imposed by the Freedom of Information Act, 442 of 1976.