



Office of the City Clerk

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Legislation Text

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OFFICE OF THE MAYOR

CITY OF CHICAGO

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OFFICE OF THE CITY CLERK

LORI E. LIGHTFOOT MAYOR

February 5, 2021

Anna Valencia City
Clerk
Room
Chicago, IL 60602

107,

City

Hall

Dear Ms. Valencia:

I transmit herewith for filing Executive Order No. 2021-1, which I have signed this date. Your prompt attention to this matter is appreciated.

OFFICE OF THE MAYOR

CITY OF CHICAGO

LORI E. LIGHTFOOT MAYOR

EXECUTIVE ORDER NO. 2021-1

ACCESS TO INFORMATION REGARDING ALLEGED POLICE MISCONDUCT

WHEREAS, individuals who complain of certain types of alleged police misconduct against them may justifiably seek access to video and audio recordings and certain specified initial police reports pertaining to those incidents; and

WHEREAS, it is necessary and appropriate as a matter of fundamental fairness and good government transparency to provide these individuals with the information they seek; and

WHEREAS, any such access to information must be provided in compliance with all state and federal laws, regulations and rules that protect the privacy rights of individuals involved in the incidents; and

WHEREAS, it is also important that there be clear standards and expectations regarding release of such materials; now, therefore,

I, LORI E. LIGHTFOOT, Mayor of the City of Chicago, do hereby order as follows:

SECTION I. DEFINITIONS.

For purposes of this Order, the following definitions apply:

"BWC" means, (body-worn camera. " *i* < c

"Complainant" means a person who has filed a complaint with COPA alleging police misconduct and is the subject of the Incident. The term "Complainant" includes a parent or legal guardian of a Complainant who is a minor, or the legal representative of a Complainant.

"COPA" means the City of Chicago Civilian Office of Police Accountability.

"CPD" means the City of Chicago Police Department.

"DOL" means the City of Chicago Department of Law.

"Incident" means an alleged incident of misconduct by one or more members of CPD.

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"Incident Related Material" means material that depicts or captures any portion of the Incident or, in the case of initial police reports, reflects a narrative memorialization of the Incident.

"OEMC" means the City of Chicago Office of Emergency Management and Communications.

"PSA" means the City of Chicago Office of Public Safety Administration.

SECTION II. SCOPE.

A. Incidents. This Order encompasses any Incident not covered by the City's Video Release Policy in which a Complainant submits a written request to COPA for access to or copies of video or audio recordings of the Incident, as well as any initial police reports related to the Incident, before that information has otherwise been made public. This Order does not apply to Incidents covered by the City's Video Release Policy.

B. Types of Incident Related Material. This Order applies to the following types of Incident Related Materials in possession of CPD, COPA, PSA and/or OEMC to the extent they are available: video and audio recordings from CPD dash cameras or BWC and initial police reports such as original case reports and tactical response reports.

SECTION III. RELEASE OF INCIDENT RELATED MATERIAL.

A. Departmental Responsibilities.

- i. Upon receiving a written request for release, COPA shall:
 - a. Verify that a complaint has been filed with COPA regarding the relevant Incident and that the Incident is not covered by the City's Video Release Policy.
 - b. Determine which City department has jurisdiction for investigating the Incident.
 - c. Notify CPD and DOL of the written request within three business days of receiving the Complainant's request, including a copy, and of the determinations COPA has made under Section III.A.i.(a) and (b) herein.
 - d. Determine whether the Incident relates to an ongoing criminal matter and, if so, notify the Cook County State's Attorney's Office of the request.
 - e. Confirm receipt of the request from the Complainant. If COPA has determined that either a complaint has not been filed regarding the relevant Incident or that the Incident is covered by the City's Video Release Policy, it should notify the Complainant of its determination as soon as practical.
- ii. Upon receiving notice of the request, the City department that has jurisdiction over the Incident (COPA or CPD) shall conduct a reasonable search to identify Incident Related Material.
- iii. The City department with jurisdiction over the Incident shall provide to COPA, CPD, and DOL a list of the identified Incident Related Material.
- iv. COPA and CPD shall post to each respective website instructions on how to request Incident Related Material, including what information must be provided by Complainant.
- v. COPA and CPD shall provide information about this Order to members of the public as part of routine public engagement efforts.

B. Timing of Release. Subject to the operation of law, all Incident Related Material covered by this Order shall be released by the City department that has jurisdiction over investigating the Incident to the Complainant as soon as practical, but no later than 30 calendar days after COPA receives the request for release.

C. Manner of Release of Incident Related Material. The City shall make Incident Related Material available via a secure web-based portal dedicated to the Complainant. The released material must be maintained on that portal for 30 days to allow the Complainant to download the material during that time.

D. Operation of Law. The release of Incident Related Material may be delayed or prohibited entirely by operation of law. Examples of circumstances in which the operation of law may delay or prohibit such release include matters in which materials otherwise subject to release under this Order are: 1) subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Illinois Juvenile Court Act,¹ Illinois Law Enforcement Officer-Worn Camera Act,² or Illinois Identity Protection Act;³ 2) subject to an order of court prohibiting or delaying its release; or 3) the subject of an ongoing criminal investigation, or the request to delay release by a law enforcement agency. To the extent that the City department with jurisdiction over the investigation invokes an applicable state or federal law as a basis for delay or prohibition, the bases for such action shall be provided in writing to the Complainant as soon as possible by the responsible department, but no later than 30 calendar days from the receipt of the request. All requests for delay (hereinafter "the Delay Request") shall expire 90 days after the Delay Request is received from the law enforcement agency, at which time the Complainant shall be provided all Incident Related Material, unless production is prohibited by law or court order.

SECTION IV. ADDITIONAL LEGAL CONSIDERATIONS. This Order is intended to govern the conduct of the City and its agencies and officials with respect to the matters it covers. It is not intended to create, 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):

A. Any order of a court of competent jurisdiction; or

B. Any obligation to redact or withhold information from any item covered by this Order before its release to the Complainant. This includes (but is not limited to) obligations under the HIPAA, the Illinois

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Juvenile Court Act, Illinois Law Enforcement Officer-Worn Camera Act, and Illinois Identity Protection Act as set forth above.

C. Its right to redact information from produced material in the same manner it would redact information after determining to produce the video exempt from production under the Illinois Freedom of Information Act, 5 ILCS 140/1, et seq. The City's inclusion of Incident Related Material within this Order, and the subsequent public release of such material, in no way suggests that the City or any City entity has made any determination regarding the conduct of any CPD member or any other individual or entity, the cause of injury to or death of any individual, or, whether any released material bears any legal relevance to a particular Incident. The City and its departments including, but not limited to, CPD, COPA and DOL do not waive any rights or

defenses available to them under law and explicitly reserve any and all such rights or defenses.

SECTION V. This Order shall take effect 30 calendar days after its execution and filing with the City Clerk.

Received and filed February 5, 2021

City Clerk

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