

Public Release of Critical Incident Recordings

Policy Statement

The City of New Orleans recognizes transparency facilitates increased trust between the New Orleans Police Department (“NOPD”) and the New Orleans community. Consistent with this recognition, it is the policy of the City and the NOPD to facilitate the prompt release of audio and video recordings of critical incidents involving the NOPD so long as the release is consistent with the legitimate needs of ongoing law enforcement operations. All releases of such recordings shall be made in accordance with the provisions of federal, state, and local laws.

- 1) **Definitions.** For purposes of this policy, these terms have the following meanings.
 - a) A “Recording” includes audio and/or video recordings of a Critical Incident in the possession of NOPD.
 - b) A “Critical Incident” is an event in which: an officer uses force resulting in hospitalization or death; an officer intentionally shoots his or her gun at a person(s); an officer strikes someone in the head with an impact weapon, whether intentional or not; a police vehicle pursuit results in death or an injury of a person(s) requiring hospitalization; or an arrested or detained subject dies while in the custody of an officer.
 - c) “Interested Parties” are (1) the Orleans Parish District Attorney’s Office; (2) the New Orleans City Attorney’s Office; (3) the NOPD Compliance Bureau; and (4) the United States Attorney’s Office.
- 2) **Ownership and Custody Of Recordings.** All Recordings made by the NOPD are the property of and in the custody of the City of New Orleans.
- 3) **Recommendation.**
 - a) Within 48 hours of a Critical Incident, the NOPD Public Integrity Bureau shall provide the Interested Parties access to the Recording(s).
 - b) As soon as practicable thereafter, the Deputy Chief of the NOPD Public Integrity Bureau shall confer with the Interested Parties for the purpose of obtaining their input regarding the public release of a Critical Incident Recording.
 - c) No longer than seven (7) days after a Critical Incident, the Deputy Chief of NOPD Public Integrity Bureau shall make a written recommendation to the Superintendent of the NOPD, with a copy to the Interested Parties, setting forth her recommendation regarding release of the Recording. The Interested Parties may submit their written objections to her recommendation, if any, to the Superintendent within 24 hours.

- d) The Deputy Chief of NOPD Public Integrity Bureau shall include in her recommendation reasons the Recording should or should not be released to the public. If she/he recommends release of the Recording, she/he shall identify the Recording(s) or portions of Recording(s) which she/he believes should be released to accurately and sufficiently display the Critical Incident and identify any recommended redactions or blurring.
- 4) **Considerations for Disclosure.** The Deputy Chief of the Public Integrity Bureau and the Interested Parties shall consider the following non-exclusive factors when conferring regarding release of a Recording:
- a) The nature of the incident/crime.
 - b) The location of the incident/crime, in a public or private space.
 - c) The safety or contamination of witnesses to the Critical Incident, including officers.
 - d) The public interest in protecting juveniles, the privacy rights of victims, witnesses, officers and other individuals with a reasonable expectation of privacy, to the extent blurring or redactions will not provide adequate protection.
 - e) The privacy protections afforded pursuant to Louisiana Revised Statute 40:2532 and whether redaction/blurring of identity adequately addresses any privacy concerns
 - f) The contribution release will make to building public trust by facilitating transparency.
 - g) The needs of law enforcement officials in the course of an ongoing investigation and whether release of the Recording would interfere with an ongoing investigation or where it could adversely affect the prosecution of an ongoing criminal matter or reasonably anticipated criminal litigation.
 - h) The input of the recipient of force at issue in the Critical Incident, witness, or, if warranted, the family members of the recipient of force at issue in the Critical Incident
- 5) **Determination.** Within 48 hours of receiving a written recommendation regarding release of the Recording(s), the NOPD Superintendent, on behalf of the City, shall determine whether the Recording(s) shall be released to the public under this Directive or withheld, subject to the Court's review as set forth in section 9.
- 6) **Domestic Violence or Sexual Assault.** No Recording, whether from public or private locations, will be released to the public in cases of domestic violence or sexual assault.
- 7) **Confidential Sources.** No Recording, whether from public or private locations, that may impart the identity of any confidential source will be released to the public.

8) Release and Redactions or Blurring.

- a) Recordings of Critical Incidents to be released shall be made available to the public as soon as practicable following the determination of release.
- b) NOPD may redact or blur portions of a released Recording as necessary to a) protect juveniles; b) protect the reasonable expectations of privacy of victims, witnesses, or suspects if applicable; and c) ensure the safety and security of all involved in the Critical Incident. NOPD shall ensure that the released Recording adequately and sufficiently reveals the Critical Incident. NOPD shall identify redacted or blurred portions of a released Recording.

9) Review.

- a) During the duration of the NOPD Federal Consent Decree entered in *United States of America v. The City of New Orleans*, Eastern District of Louisiana, CV 12-1924, any determination by the City not to release a Recording of a Critical Incident shall be reported by the City or NOPD to the Court, the Department of Justice, and the Consent Decree Monitor within 24 hours after the date of determination. The City and NOPD will request that the Court confer with the City, Interested Parties and the Department of Justice prior to entering any order reversing a decision regarding release. Nothing in this policy shall be construed as restricting the City or the Orleans Parish District Attorney's Office from appealing a decision of the Court. The Court's decision will not be stayed unless stayed by the District Court or by the U.S. Court of Appeals at the request of the City or DOJ.

- 10) No Third Party Rights Created.** This policy establishes no new rights in any third party with respect to the release of a Recording. Public requests for the release of a Recording are governed by the Louisiana Public Records Act. Nothing in this policy shall be construed to affect the rights of the City under La. R.S. 44:3.