



Policy 607

Subject

PUBLIC RELEASE OF CRITICAL INCIDENT RECORDINGS

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By Order of the Police Commissioner

POLICY

1. **Transparency.** In order to promote transparency, it is the policy of the Baltimore Police Department (BPD) to release audio and video recordings of Critical Incidents involving the BPD as long as such disclosure does not jeopardize any ongoing law enforcement investigation. All releases shall be made in accordance with federal, state, and local law.
2. **MD Law.** This policy establishes no new rights to any third party with respect to the release of a Recording. Public requests for the release of a Recording are governed by the Maryland Public Information Act (PIA). Nothing in this Policy shall be construed to affect the rights of the City or the policy governing the BPD's Document Compliance Unit (See Policy 603, *Document Compliance Unit*).

DEFINITIONS

Critical Incident — For purposes of this policy, a Critical Incident is an event in which a member:

- Uses force that results in hospitalization or death,
- Discharges a firearm at a person or at an animal,
- Strikes a person in the head with an impact weapon,
- Performs a vehicle pursuit that results in the death or Serious Physical Injury of a person,
- Has custody over an arrested or detained subject who dies while in custody, or
- Otherwise has engaged in conduct that, in the independent judgement of the BPD or upon recommendation of an Interested Party (pursuant to p. 4 of this Policy), has generated or is generating significant public interest.

Interested Parties — The Baltimore City Office of the State's Attorney (OSA), the United States Attorney's Office (USAO), BPD Compliance Bureau, BPD Office of Public Information, the Baltimore City Office of Civil Rights, and the Public Integrity Bureau (PIB).

Recording — Audio and/or video recording of an incident that is in the possession of the BPD.

Serious Physical Injury — Occurs when there is disfigurement or substantial disruption or harm to one or more body parts, organs, or systems. The term includes, for example, brain injury, with or without consciousness, gunshot wounds, cardiac arrhythmia, difficulty breathing, cardiac or respiratory arrest, broken bones, dislocations, torn ligaments or tendons, or significant bleeding. This list is not exhaustive and is intended only to provide representative examples for guidance.

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DIRECTIVES

Determining the Release of Critical Incident Recordings

1. PIB shall provide the Interested Parties access to the Recording(s) as soon as possible but no later than 24 hours after a Critical Incident.
2. The Deputy Commissioner of PIB shall confer with the Interested Parties for their recommendations on whether the Recording(s) should be released publicly.

NOTE: The Deputy Commissioner of PIB may also seek legal advice from the City Solicitor and/or designee of the Baltimore City Department of Law prior to making a determination.

3. The Deputy Commissioner of PIB and the Interested Parties shall consider the following non-exclusive factors when conferring regarding the release of a Recording:
 - 3.1. The nature of the incident,
 - 3.2. The location of the incident (e.g., public or private space),
 - 3.3. The safety or contamination of witnesses to the Critical Incident, including other members,
 - 3.4. Whether the involved member(s) has provided a voluntary or compelled statement during the investigation of the Critical Incident,
 - 3.5. The public interest in protecting juveniles, the privacy rights of victims, witnesses, members, or other individuals with a reasonable expectation of privacy, to the extent that blurring/redactions will not adequately protect them,
 - 3.6. Whether the Recording would in any way disclose the identity of a confidential informant or source,
 - 3.7. The privacy protections afforded by Maryland Law and whether blurring/redactions will adequately protect,
 - 3.8. The extent of public interest in the event,
 - 3.9. The contribution the release will make to building public trust by facilitating transparency,
 - 3.10. The needs of law enforcement officials through 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 litigation,
 - 3.11. 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, and

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3.12. Whether video of the same events has already been broadcast by media outlets or posted online by non-BPD sources.

NOTE: The Police Commissioner may expedite any of the timelines in this policy to facilitate the prompt release of a Critical Incident Recording.

4. As soon as determined, but no more than 5 days after a Critical Incident, the Deputy Commissioner of PIB shall make a written recommendation to the Police Commissioner with his/her determination on the public release of the Recording(s). The Deputy Commissioner of PIB will simultaneously forward the recommendation to the Interested Parties, who may submit their written objections to the recommendation - if any - within 24 hours to the Police Commissioner.
5. The Deputy Commissioner of PIB, shall include in their recommendation an explanation of why the Recording (or portions thereof that were not omitted for length) should or should not be released to the public. If the recommendation is in favor of a public release, the Deputy Commissioner of PIB, shall identify the Recording(s) or portions thereof which he/she believes should be released to accurately and sufficiently display the Critical Incident and identify any recommended redactions or blurring.
6. Within 48 hours of receiving a written recommendation regarding the release of the Recording(s), the Police Commissioner shall determine whether the Recording will be released to the public or withheld.
7. Recordings of Critical Incidents, when determined to be made public, shall be made available to the public as soon as practical (i.e., after families have been notified, after the involved member has made a statement, etc.) following such determination.
8. The BPD reserves the right to redact or blur portions of a released Recording as necessary to protect:
 - 8.1. Juveniles,
 - 8.2. The reasonable expectation of privacy of victims, witnesses, or suspects, if applicable,
 - 8.3. The safety and security of all involved in the Critical Incident,
 - 8.4. The identity of confidential informants or sources, and
 - 8.5. Anything else permitted under state and federal law.

NOTE: The BPD shall identify redacted or blurred portions of a released recording.

9. The BPD shall ensure that the released Recording adequately and sufficiently reveals the Critical Incident.
10. The Deputy Commissioner of PIB shall maintain records of the written determination, including any written objections, in a secure place within PIB.

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Recommendations by Interested Parties

1. Any of the Interested Parties may recommend the deliberation of a Recording following the Directives of this policy for instances of or conduct that, in their judgement, has generated or is generating significant public interest.
2. Upon recommendation from an Interested Party (or Parties), the Police Commissioner will determine whether the incident and associated Recordings should be deliberated as a Critical Incident.
3. Within 24 hours, the Police Commissioner will notify in writing all of the Interested Parties, including those who did not make a recommendation, of his/her determination of whether or not the incident constitutes a Critical Incident. If the response is in favor of deliberating the associated Recordings of the Critical Incident, the Police Commissioner or his/her designee shall instruct the Deputy Commissioner of PIB to make the Recordings available to the Interested Parties.
4. The Deputy Commissioner of PIB will have 24 hours from the Police Commissioner's instruction to distribute the Recordings to the Interested Parties.
5. The Deputy Commissioner of PIB and the Interested Parties will deliberate following the steps listed in **Determining the Release of Critical Incident Recordings**.

ASSOCIATED POLICIES

Policy 603, *Document Compliance Unit*
Policy 824, *Body-Worn Camera*

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.