



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

575 – VIDEO RELEASE POLICY

GENERAL ORDER: XXX-XX
ISSUED: XXXX

EFFECTIVE: XXXX

REVIEWED/APPROVED BY: XXXX
DATE: XXXX

ACTION: Creates SOP

WILEAG STANDARD(S): NONE

575.00 PURPOSE

- A. The purpose of this standard operating procedure (SOP) is to foster greater public trust in the Milwaukee Police Department by increasing transparency with respect to department operations involving the use of deadly force. The department recognizes that the Milwaukee community has a strong and undeniable interest in being informed—in a complete, accurate, and timely manner—about incidents that result in death or great bodily harm that is caused by a department member’s actions or occurs while in police custody.
- B. To that end, this SOP establishes criteria for when video evidence that captures officer-involved incidents that result in death or great bodily harm will be released to the public. This policy is intended to balance important interests, including the public’s interest in transparency and police accountability, the necessity of preserving the integrity of criminal and administrative investigations, and the privacy interests of individuals depicted in such videos (including victims, witnesses, bystanders, and the individuals against whom force is used). This policy creates a presumption of release.

575.05 DEFINITIONS

A. FAMILY MEMBER

For purposes of this SOP, family member means a spouse, minor child, adult child, sibling, parent, or legal guardian.

B. NEXT OF KIN

Next of kin means a spouse, parent, and/or adult child, or, where a deceased person has no living spouse, parent, or adult child, the person’s nearest living blood relation.

C. OFFICER-INVOLVED DEATH

For purposes of this SOP, an An officer-involved death is an incident that involves a, “A death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but asserts or could assert that he or she was performing activities that are within the scope of his or her law enforcement duties.” Wis. Stat. § 175.47(1)(c).

DB. OTHER CRITICAL INCIDENT

Other critical incident is an incident involving a department member that results in death or great bodily harm to a person that is caused by a member's actions, occurs while in police custody, or any incident that the Chief of Police, or his/her designee (must be assistant chief or inspector rank), declare a critical incident. Any injury to a person as a result of a firearm discharge by a department member, not resulting in death, shall also be considered a critical incident.

575.10 COMPUTATION OF TIME

In computing periods of time under this SOP, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the last day of the period shall be the next business day. Saturdays, Sundays, and legal holidays shall otherwise be included in the computation.

575.15 RELEASE DEADLINE

- A. The department shall release video evidence of the following types of incidents to the public within fifteen (15) days of the incident:
1. Any officer-involved death as defined by ~~_SOP 575.05(C)Wis. Stat. § 175.47(1)(c)_~~;
 2. Any other critical incident as defined in SOP 575.05(DB); ~~or-~~
 3. Any incident involving the death of a person where a department member discharges a firearm, even if the death was not the result of the firearm discharge by the department member.
- B. The release shall, at a minimum, consist of relevant video footage that depicts the actions and events leading up to and including the officer-involved death, other critical incident, or death. Relevant video footage includes accompanying audio recordings.
- C. Video footage that is substantially duplicative or redundant need not be disclosed.
- D. This policy shall not be construed to discourage or prevent the department from releasing video evidence prior to the deadline set forth above.

575.20 VIDEO SOURCE

The sources of video evidence that may be released pursuant to this SOP include, but are not limited to, body worn camera (BWC) video, in-car video, audio recordings of 911/emergency calls, other video captured by the department, and video captured by other individuals or entities that is in the department's possession.

575.25 PRIVACY PROTECTIONS VIDEO ALTERATIONS AND WITHHOLDINGS

A. Notwithstanding the above sections, video footage will ~~not be released~~ redacted, edited, or withheld to the extent necessary where release is prohibited or limited by law or court order. While not an exhaustive list of laws that may prohibit or limit release, the department shall consider the following statutes prior to releasing video footage:

1. 18 U.S.C. § 2721 (The Driver's Privacy and Protection Act);

2. Wis. Stat. § 48.396(1); 938.396(1)(a) (law enforcements records of children, juveniles, and expectant mothers of unborn children); and

A-3. Wis. Stat. § 165.68(4)(d)1 (Wisconsin's address confidentiality program).

B. Consistent with the legal protections afforded juveniles and the victims of crimes, video footage shall be redacted or edited to the extent necessary to ensure that the identity of such individuals is protected. In each instance, such redactions or editing may include removing sound or blurring of faces and other images that would specifically identify involved individuals, sensitive locations, or reveal legally protected information. Where possible, such redactions or editing shall not interfere with a viewer's ability to fairly and completely understand the events captured in the video. Where the video cannot be sufficiently redacted or edited to protect the person's identify, it will be withheld.

B-C. Video footage, or portions video footage, may be withheld based upon requests from any adult crime victim depicted in the video, the parent or legal guardian of any minor crime victim depicted in the video, or an adult family member or co-habitant of any deceased crime victim depicted in the video. The department shall consult with any such adult crime victim, the parent or legal guardian of any such minor crime victim, and/or any such deceased crime victim's adult family members or co-habitants prior to release.

D. Video footage also may be redacted or edited for the following reasons:

1. ~~To~~ protect the privacy interests of other individuals who appear in the video;
~~Video footage may also be redacted or edited to~~

2. To obscure images depicting nudity or extremely disturbing images or sounds, such as images depicting gruesome bodily injuries;

3. To protect confidential medical or mental health information;

4. To protect the identify of a confidential informant;

5. To prevent the disclosure of confidential strategies for crime detection and prevention;

6. To prevent the loss of state or federal aid;

7. To prevent a security risk at a secured facility; or

8. Where there is a particularized, specific risk that release would endanger the safety of a person (including a department member).

~~C.~~ In each such instance ~~Where possible, the such~~ redactions or editing shall not interfere with a viewer's ability to fairly and substantially understand the events captured in the video.

~~D.E.~~ _____ In cases involving an officer-involved death or death of a person where a department member discharges a firearm, video footage may be redacted, edited, or withheld based upon requests from the person's next of kin.

~~E.F.~~ _____ Except as provided for in this section, no other editing or alteration of video footage, including a reduction of the video footage's resolution, shall be permitted.

~~F.G.~~ _____ In all cases where redaction or editing is performed, an original, unedited version of the video footage shall be retained.

575.30 NOTIFICATIONS AND CONSULTATIONS

A. Absent good cause consistent with SOP 575.35(A), in cases involving an officer-involved death or death of a person where a department member discharges a firearm, the department shall make reasonable attempts to notify the person's next of kin and provide them an opportunity to view the video footage within forty-eight (48) hours of the incident. This requirement does not apply to situations in which the next of kin was a witness or otherwise involved in the incident.

B. The department shall also make reasonable attempts to notify the following individuals or entities and provide them an opportunity to view the video footage at least seventy-two (72) hours prior to its release:

1. Department members depicted in the video and/or significantly involved in the incident~~;~~

2. The Milwaukee Police Association and/or the Milwaukee Police Supervisors Organization, provided the department member(s) is represented by one of these labor unions~~;~~

3. The individual against whom force was used~~;~~

4. If the individual is a juvenile, his/her parents or legal guardian~~;~~

4.5. Any victim, as defined in Wis. Stat. § 950.02(4)(a), depicted in the video;

~~5.6.~~ Any legal counsel that represents any of the individuals listed above ~~(-A~~ notification to counsel may serve as the notification to the individual~~);-~~

~~6.7.~~ The District Attorney's Office and the City Attorney's Office; ~~and-~~

~~7.8.~~ Other individuals or entities as deemed appropriate by the Chief of Police or his/her designee.

C. Prior to release, the department shall consult and seek feedback from the District Attorney's Office and the outside investigating agency if the incident falls under [Wis. Stat. § 175.47](#).

575.35 EXTENSION OF TIME

A. There may be circumstances in which the release of video evidence (both to the public and the individuals and entities listed in SOP 575.30) must be delayed to protect one or more of the following interests:

1. The safety of the individuals involved, including department members, witnesses, bystanders, or other third parties~~);-~~
2. The integrity of active investigations (including criminal or administrative)~~);-~~
3. Confidential sources or investigative techniques~~);-~~
4. The constitutional rights of an accused; ~~or-~~
5. The next of kin's interest in viewing the video prior to its release.

B. If the Chief of Police or his/her designee determines that video evidence will not be released within fifteen (15) days following an incident of the type listed in SOP 575.15(A), the department will submit a statement to the Fire and Police Commission Executive Director summarizing the reasons for the decision within fifteen (15) days of the incident. In such circumstances, the following rules shall apply:

1. The reasons provided may not be general; they must have a factual basis and be specific to the individual case.
2. Except where release is prohibited by law, any decision to delay the release shall be reassessed at least every thirty (30) days. Following any reassessment where the Chief of Police or his/her designee determines that further delay is warranted, the department shall submit a new statement to the Executive Director summarizing the reasons for the decision.
3. The video evidence in question shall be released as soon as the reason(s) for the delay has been resolved to the satisfaction of the Chief of Police or his/her designee.

- C. Delayed release under this section is intended to be the exception rather than the rule. The following reasons, by themselves, are not grounds for delayed release: high workload, the fact that an investigation remains ongoing, or the fact that the circumstances surrounding an incident are not yet fully known.

575.40 RELEASE – LIMITED WAIVER

The release of any specific video footage does not waive the department's right to withhold other video footage 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. It is also not intended to prevent or hinder compliance by the department with respect to any memorandum of understanding (MOU) related to a federal or state task force or any other legal disclosure requirements, including, but not limited to, any court order or disclosure provisions of the Wisconsin public records law.

JEFFREY B. NORMAN
CHIEF OF POLICE