

June 11, 2021

OFFERED BY MAYOR HORRIGAN, PRESIDENT SOMMERVILLE & VICE PRESIDENT FUSCO

ORDINANCE NO. \_\_\_\_-2021 enacting Title 3, Chapter 33, Article 3 of the Akron Code of Ordinances to provide for the prompt release of footage from City-issued body-worn-cameras or other City-issued video recording equipment that documents the use of deadly force by a police officer against a person or the use of force by a police officer resulting in serious bodily injury to a person, in accordance with Charter Section 141a, adopted by the electors of the City of Akron; and declaring an emergency.

WHEREAS, the residents of the City of Akron, Mayor Dan Horrigan, and the members of Akron City Council believe in the importance of transparency and public accountability; and

WHEREAS, in furtherance of the interests of transparency, the City has outfitted Akron police officers who work with the general public with body-worn cameras; and

WHEREAS, the City does not currently have cameras mounted on the dashboards of police vehicles or utilize video recording technology on taser guns or other equipment, but may do so in the future; and

WHEREAS, on November 3, 2020, the electorate of the City of Akron overwhelmingly voted to amend the Charter of the City of Akron to include Section 141a, which provides that City Council shall enact legislation requiring the prompt disclosure, within a reasonable time, of recordings made by Akron Police body-worn cameras or video cameras mounted on dashboards of police vehicles that document the use of deadly force by a police officer against a person or the use of force by a police officer that results in serious bodily injury to a person.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 3, Chapter 33, Article 3 “Disclosure of Use-of-Force Recordings” of the Akron Code of Ordinances be, and is hereby, enacted:

### **Article 3. Disclosure of Use-of-Force Recordings.**

#### **33.20 Definitions**

(A) As used in this Article:

- (1) **“Akron Police Department” means the City of Akron Department of Public Safety, Police Division.**
- (2) **“Body-worn camera” means a video-recording device issued by the City to a police officer that is designed to be worn or otherwise utilized by the police officer during the course of the officer’s duties.**
- (3) **“City” means the City of Akron.**

- (4) **“City recording device” means a body-worn camera, dashcam, or other device capable of making a video recording that is issued to a police officer for use in the course of the officer’s official duties.**
- (5) **“Dashcam” means a video-recording device installed in a City police vehicle by the City, or a party authorized by the City, for the purpose of recording video in and/or around the vehicle.**
- (6) **“Deadly force” means any force that carries a substantial risk that it will result in serious bodily injury or death of any person.**
- (7) **“Extraordinary circumstances” includes, but is not limited to, any one or more of the following: terrorist attack, mass-shooting incident, cyberattack, disruption of City operations by a natural disaster, or disruption of City operations through loss of power, flooding caused by a burst pipe, or similar occurrence.**
- (8) **“Footage” means that portion of a video recording made by a City recording device that documents an incident.**
- (9) **“Incident” means a police officer’s use of deadly force against a person or use of force resulting in serious bodily injury to a person.**
- (10) **“Petition” means a written request for the release of footage, which is explicitly made pursuant to Akron Charter Section 141a and/or this Article, rather than under Ohio’s Public Records Act, and reasonably identifies the incident for which the request is made.**
- (11) **“Petitioner” means an individual who has submitted a petition pursuant to this article.**
- (12) **“Police officer” means a sworn member of the Akron Police Department who is engaged in official duties.**
- (13) **“Serious bodily injury” means any of the following:**
  - (a) **Any physical injury that carries a substantial risk of death;**
  - (b) **Any physical injury that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;**
  - (c) **Any physical injury that involves some permanent disfigurement or that involves some temporary, serious disfigurement;**
  - (d) **Any physical injury that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.**

**33.21 Release of Footage of Incidents Involving a Police Officer's Use of Deadly Force Against a Person or Use of Force Causing Serious Bodily Injury to a Person**

**(A) The City shall release footage within seven days of an incident. For purposes of this division, the City complies with its obligation to release the footage when**

**(1) it releases footage from at least three City recording devices or, in the event that the incident is recorded by fewer than three City recording devices, all footage of the incident;**

**(2) the released footage begins at least sixty seconds prior to the incident or at the beginning of the recording, whichever is shorter; and**

**(3) the City redacts the footage as mandated by state and federal laws.**

**(B) In addition to the footage released pursuant to division (A) of this section, the City shall release all remaining footage of the incident within thirty days of the incident. The City complies with its obligation under this division when**

**(1) the released footage begins at least sixty seconds prior to the incident or at the beginning of the recording, whichever is shorter; and**

**(2) the City redacts the footage as mandated by state and federal laws.**

**(C) An individual who believes that the City has not complied with its obligation to release footage as set forth in divisions (A) and/or (B) of this section may file a petition with the Director of Law for the release of the footage. After receiving a petition, the City shall determine whether footage exists and, if it does, shall release the footage in the manner set forth in divisions (A) and/or (B) of this section with the exception that the seven-day period for releasing the footage begins with the City's receipt of the petition. In the event that no footage exists or that requested footage cannot be reasonably identified, the City shall issue notification in writing to the petitioner of that fact within seven days.**

**(D) Any petition for the release of the footage under this section shall contain appropriate contact information where the petitioner can receive written correspondence and shall be made via one of the following ways:**

**(1) by electronic mail (e-mail) to the address designated by the City's Director of Law;**

**(2) by regular or certified U.S. mail to the offices of the Civil Division of the City of Akron Department of Law; or**

**(3) by personal delivery to the offices of the Civil Division of the City of Akron Department of Law.**

- (E) Notwithstanding the requirement of release in divisions (A), (B), and (C) of this section, the City shall not be required to release footage when such release is prohibited by court order or other legal prohibition that requires withholding the release of the footage. The existence of such a court order or other legal prohibition is a complete defense to any action made to compel disclosure of footage under this Article.
- (F) The period set forth in divisions (A), (B) and (C) of this section for the City to release footage shall not apply in extraordinary circumstances. Under extraordinary circumstances, the City shall release the footage within a reasonable time.

**33.22 Enforcement**

- (A) A petitioner may compel the City's compliance with its obligations under section 33.21 by initiating an action as if the petition were made under the Ohio Public Records Act.

**33.23 Penalty**

- (A) Should the City be found to have failed to comply with its obligation to release the footage as set forth in division (C) of section 33.21, the petitioner who brought the action under division (A) of section 33.22 shall be entitled to the same damages and attorney fees set forth in R.C. 149.43 for a governmental entity's failure to comply with the Ohio Public Records Act.

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that Akron Charter section 141a requires Akron City Council to enact legislation to provide for prompt disclosure of body-worn camera or other video footage showing the use of deadly force against a person or force resulting in serious bodily injury to a person by a police officer, thereby increasing police transparency, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect on June 30, 2021; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed \_\_\_\_\_, 2021

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved \_\_\_\_\_, 2021

\_\_\_\_\_  
MAYOR

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 AKRON CITY COUNCIL

# Akron City Council - Uniform Council Report (UCR)

## PART I – General Information

Subject of Requested Legislation:

Enact Title 3, Chapter 33, Article 3 of the Akron Code of Ordinances, in accordance with Charter Section 141a, adopted by the electors of the City of Akron

Department/Division: Mayor's Office

Requestor: Ellen Nischt

Phone/Ext: 2345

If applicable, previous legislation on this subject (reference by ordinance/resolution number):

N/A

Purpose/Objective of Legislation:

Enacting an ordinance to provide for the prompt release of footage from City-issued BWC or other City-issued recording equipment that documents the use of deadly force by a police officer against a person or the use of force by an officer resulting in serious bodily injury to a person.

## PART II – Financial Information

Does this Legislation directly involve the expenditure of funds?

YES

NO

Was this expenditure budgeted for in the current operating budget?

YES

NO

If "YES," describe how the budgeted amount for the project compares to the actual or estimated costs:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### City Expenditures

### City Receipts

Budgeted Costs	
Amount:	
Fund:	
Org:	
Acct:	

Estimate of Costs	
Amount:	
Fund:	
Org:	
Acct:	

City Receipt of Funds	
Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Other Consideration

Total expenditure (if applicable): \$ \_\_\_\_\_

Total receipts (if applicable): \$ \_\_\_\_\_

## PART III – DETAILED INFORMATION:

Attach detailed information/documentation, as described in UCR Instruction Sheet.