

PUBLIC GUIDE TO OBTAINING VIDEO RECORDINGS

Effective October 1, 2016 North Carolina General Statute 132-1.4A will take effect. This statute governs certain recordings made by law enforcement and establishes procedures for disclosure or release of the recordings. Concord Police Department is providing this informational guide to help explain the new statute, and the required procedures in an effort to assist the public and remain as transparent as possible.

The following are several definitions that will help in understanding the new statute:

DISCLOSE OR DISCLOSURE – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the Chief of Police.

PERSONAL REPRESENTATIVE – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.

RECORDING – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of Concord Police Department. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

RELEASE – To provide a copy of a recording to a requesting party.

The new statute gives two options to the requestor, disclosure or release. The statute also explains that the Concord Police Department may only disclose or release as provided by North Carolina General Statute 132-1.4A. A person requesting disclosure of a recording must make a written request to the Chief of Police that states the date and approximate time of the activity captured in the recording, or otherwise reasonably identifies the recording to which the request refers.

Concord Police Department has provided the Request for Video Recordings Form to ensure all required information is included. The statute also requires that when disclosing a recording the Concord Police Department may only disclose those portions of the recording that are relevant to the person's request.

A person who receives disclosure may not record or copy the recording.

The Chief of Police, by statute, may only disclose a recording to the following people:

1. A person whose image or voice is in the recording.
2. A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure. Written consent must be included with the Request for Video Recordings Form.
3. A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
4. A personal representative of a deceased person whose image or voice is in the recording.
5. A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

Once the Request for Video Recordings Form is received by the Chief of Police, as promptly as possible, the Chief of Police may either disclose the portion of the recording relevant to the person's request or notify the requestor of the decision not to disclose the recording to the requestor. The Chief of Police may consider any of the following factors in determining if a recording is disclosed:

1. If the person requesting disclosure of the recording is a person authorized to receive disclosure.
2. If the recording contains information that is otherwise confidential or exempt from disclosure or release under state or federal law.
3. If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
4. If disclosure may harm the reputation or jeopardize the safety of a person.
5. If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
6. If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

If the Chief of Police denies disclosure, or does not provide disclosure more than three business days after the request for disclosure, another option is available. The requestor may ask the superior court for a review of the denial of disclosure.

By statute, if a person is requesting **release** of a recording, a court order signed by a superior court judge is required. A requestor may petition the superior court for an order releasing the recording to a person authorized to receive release.

For detailed information please refer to North Carolina General Statute 132-1.4A.

FREQUENTLY ASKED QUESTIONS

1. What is the difference between disclosure and release?

Disclosure may allow the requester to view and listen to the recording at a time and location chosen by the Chief of Police. The Chief of Police determines if a requester is allowed to view and/or listen to the recording.

Release may provide a copy of the recording to the requestor. Release requires a court order signed by a Superior Court Judge. Under North Carolina State law the Chief of Police has no authority to release a recording.

2. Will I be able to view and/or listen to the entire recording?

A person who receives disclosure may only view and/or listen to the section(s) that contain the relevant image and/or voice.

3. May I record or copy the recording if I am approved to view and/or listen to the recording?

By law, a person who receives disclosure shall not record or copy the recording.

4. Who may request to view and/or listen to a recording?

A person whose image or voice is in the recording.

A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.

A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

A personal representative of a deceased person whose image or voice is in the recording.

A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.