

Submitted by: Assembly
Members Rivera,
Volland and Martinez

Prepared by: Assembly Counsel's
Office

For reading: July 11, 2023

**ANCHORAGE, ALASKA
AO No. 2023-78**

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
2 **ANCHORAGE MUNICIPAL CODE CHAPTER 3.102, *MUNICIPAL USE OF***
3 ***SURVEILLANCE TECHNOLOGIES*, TO ADD A REQUIREMENT FOR A BODY-**
4 **WORN CAMERA POLICY, SET SPECIFIC STANDARDS, AND TO REORGANIZE**
5 **THE CHAPTER.**
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8 **WHEREAS**, in 2020 the Assembly approved AO 2020-116(S) submitting to the
9 voters of the Municipality, a ballot proposition levying a special tax dedicated to fund
10 the Anchorage Police Department's acquisition of computer aided dispatch, record
11 management systems, in-car and body-worn cameras and related technologies;
12 and
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14 **WHEREAS**, at the regular election held April 6, 2021, voters approved the special
15 levy put forth in AO 2020-116 (S) to provide funds sufficient to the Anchorage Police
16 Department to acquire body-worn cameras as well as other technologies; and
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18 **WHEREAS**, on March 1, 2022, the Anchorage Assembly approved AR 2022-070
19 appropriating the sum of Eight Hundred Ninety Thousand Dollars (\$890,000)
20 granted from the U.S. Department of Justice, Office of Justice Programs, Bureau of
21 Justice Assistance to the Federal Grants Fund (241900), Anchorage Police
22 Department for the establishment of a lease agreement to implement a body-worn
23 camera program; and
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25 **WHEREAS**, at the end of March 2022, the Anchorage Police Department had
26 completed an initial draft policy for the use and implementation of body-worn
27 cameras; and
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29 **WHEREAS**, in late May 2022, it was reported that the Municipality still had not
30 begun negotiations with Anchorage Police Department Employees Association
31 (APDEA), the union representing Anchorage police officers, regarding the drafted
32 policies and procedures applicable to officers; and
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34 **WHEREAS**, on October 5, 2022 more than nine months after the Assembly had
35 appropriated money for the procurement of body-worn cameras, the Purchasing
36 Department released a Request for Proposal, seeking bids to provide body-worn
37 cameras for the Anchorage Police Department; and
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39 **WHEREAS**, on November 2, 2022 the Anchorage Police Department reported at a
40 meeting of the Public Safety Committee of the Anchorage Assembly that it was

1 unable to resolve the issue of officer access to body-worn camera footage through
2 negotiation with the union and it would have to be resolved through arbitration, a
3 process requiring six to nine months; and
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5 **WHEREAS**, on April 19, 2023, the Alaska Black Caucus filed suit against the
6 Municipality of Anchorage, requesting the court issue an injunction requiring the
7 Anchorage Police Department to begin equipping its officers with body-worn
8 cameras; and
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10 **WHEREAS**, on April 20, 2023 the Anchorage Police Department announced that it
11 would move forward with its purchase of body-worn cameras, despite its ongoing
12 arbitration with the union; and
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14 **WHEREAS**, on May 24, 2023 the Anchorage Police Department announced that
15 they had reached a resolution with APDEA regarding the draft body-worn camera
16 policy disagreements that have contributed to delays in equipping officers with the
17 technology; now, therefore,
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19 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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21 **Section 1.** Anchorage Municipal Code section 3.102.005 is hereby amended to
22 read as follows (*the remainder of the section is not affected and therefore not set*
23 *out*):
24

25 **3.102.005. Definitions**

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27 Body-Worn Camera System means a body-worn audio/video
28 recording system primarily consisting of a camera and an internal
29 battery pack.
30

31 Digital Evidence Software means a secure video file management
32 system required for downloading, storing, and retrieving video files
33 recorded with the body-worn camera system.
34

35 Digital Multimedia Evidence (DME) means all digital recordings,
36 including but not limited to audio, video, photographs, and their
37 associated metadata. Metadata includes any digital identifiers that are
38 captured as part of the actual recording, such as date/time, GPS
39 coordinates, labeling, etc.
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43 (AO No. 2018-5, § 1, 2-13-18; AO 2023-35(S-1), § 1, 4-18-23)
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45 **Section 2.** Anchorage Municipal Code section 3.102.020, is hereby amended to
46 add back in the language from section 3.102.030, concerning exceptions to the
47 restriction on the use of facial recognition technology, which is repealed below by
48 Section 3 of this ordinance, as follows (*the remainder of section 3.102.020 is not*
49 *affected and therefore not set out*):
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51 **3.102.020 – Restrictions on the use of facial recognition technology.**

1 *** *** ***

2 E. Exceptions.

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4 1. Nothing in this chapter shall prevent the Municipality from:

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6 a. Acquiring, obtaining, retaining, or accessing facial
7 recognition technology on an electronic device intended
8 for a single user, such as a mobile communication
9 device, cellular phone or tablet, when the facial
10 recognition technology is used solely for the purpose of
11 the user;

12
13 b. Acquiring, obtaining, retaining, or accessing social
14 media or communications software or applications
15 intended for communication with the general public that
16 include facial recognition technology, as long as the
17 municipality does not intentionally use the facial
18 recognition technology;

19
20 c. Having custody or control of electronic devices that
21 include facial recognition technology when such
22 electronic devices are held by the municipality solely for
23 evidentiary purposes;

24
25 d. Acquiring, obtaining, retaining, or accessing facial
26 recognition technology solely for the purpose of using
27 automated or semiautomated redaction software;

28
29 e. Complying with the National Child Search Assistance
30 Act, 34 U.S.C. §§ 41307-413087, or other federal
31 statutes requiring cooperation in the search for missing
32 or exploited children; or 6. Participate in, coordinate with,
33 or otherwise be involved with multi-agency law
34 enforcement investigations, working groups or task
35 forces. Specifically, municipal law enforcement may
36 intentionally work with third party agencies using Facial
37 Recognition Technology to identify:

38
39 i. Human remains or suspected missing persons;

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41 ii. Suspected victims of human trafficking; or

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43 iii. Suspected victims of child abuse or exploitation.

44
45 2. It shall not be a violation of this chapter for the municipality to
46 acquire, obtain, or retain facial recognition technology when all
47 the following conditions exist:
48

- a. The facial recognition technology is an integrated, off the shelf capability, bundled with software or stored on a product or device;
- b. Other functions of the software, product, or device are necessary or beneficial to the performance of municipal functions;
- c. The software, product, or device is not acquired for the purpose of performing facial recognition;
- d. The facial recognition technology cannot be deleted from the software, product, or device;
- e. The municipality does not use the facial recognition technology; and
- f. The municipal department, agency or official seeking to acquire the software, product, or device discloses the integrated, off the shelf facial recognition technology that cannot be deleted to the Assembly when seeking to acquire the software, product, or device.

F. Recognizing that changes in technology and circumstances may require additional exceptions to the requirements of this section, the assembly may approve such additional exceptions by resolution, under the following conditions:

1. Any municipal department that requests an exception to the restrictions of section 3.102.020 shall include in its request to the assembly an explanation of the need for an exception, a description of how the technology or information will be used, and a plan for monitoring the technology or information to ensure that its use remains within the approved parameters.
2. The assembly may approve the proposed exception by resolution pursuant to a public hearing, with or without revisions and conditions, for a period of no longer than 90 days, if it finds that the exception is consistent with the stated goals of preventing discrimination and promoting privacy, transparency, and the public trust.
3. Upon conclusion of the period of temporary exception, the department shall submit a report of its uses of the technology or information to the assembly. The department may at that time or subsequently request the assembly make the exception permanent by ordinance adding it under section 3.102.030D.

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2 4. A department that has obtained a permanent exception shall
3 submit an annual summary of its uses of the technology or
4 information as part of the Annual Surveillance Report under
5 Section 3.102.040 to the assembly. This summary shall not
6 include personally identifiable information.

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8 G. Additional permanent exceptions.

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10 1. Reserved.

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12 (AO No. 2018-5, § 1, 2-13-18; AO 2023-35(S-1), § 1, 4-18-23)

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14 **Section 3.** Anchorage Municipal Code chapter 3.102, Municipal use of
15 Surveillance Technologies, is hereby amended to repeal current Section 3.102.030,
16 Exceptions, attached hereto as Exhibit A, and add a new section to read as follows
17 *(requiring no legislative formatting)*:

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19 **3.102.030. Body-worn cameras.**

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21 A. There shall be a body-worn camera policy governing the employment
22 and use of body-worn cameras by the Anchorage Police Department.
23 The policy shall be reviewed by the Municipal Attorney and approved
24 by the Chief of Police. The following standards shall be included in any
25 body-worn camera policy:

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27 1. Body-worn cameras shall be worn by all relevant officers as
28 determined by the Anchorage Police Department.

29
30 2. Officers may not review or copy recordings under the following
31 circumstances:

32
33 a. When there is a use of force;

34
35 b. When there is a use of deadly force;

36
37 c. When there is an in-custody death; or

38
39 d. When an employee is the subject of a criminal
40 investigation.

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42 3. There shall be a method for automatic release of body-worn
43 camera recordings associated with officer involved shootings
44 or other critical incidents within a reasonable proposed timeline
45 set by the department to maximize transparency.

46
47 4. With exceptions as appropriate, all calls for service shall be
48 recorded until the conclusion of the incident. The individual
49 officer's desire for privacy is not an appropriate justification to
50 terminate or interrupt recording.

1
2 5. Provisions shall be included to ensure first amendment and
3 privacy rights are protected.

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5 6. The body-worn camera policy shall be reviewed at least every
6 two years.

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8 C. Retention and Release of Body-Worn Camera Footage

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10 1. A timeline shall be established, in accordance with municipal
11 records retention schedules, for retention of body-worn-camera
12 footage.

13
14 2. Body-worn camera footage shall be automatically retained for
15 no less than three (3) years if the footage captures an
16 interaction or event involving:

17
18 a. Any use of force; or

19
20 b. An encounter about which a complaint has been
21 registered by a subject of the camera footage.

22
23 3. Body-worn camera footage shall also be retained for no less
24 than three (3) years if a longer retention period is voluntarily
25 requested by:

26
27 a. The law enforcement officer whose body-worn camera
28 recorded the footage, if that officer reasonably asserts
29 the camera footage has evidentiary or exculpatory
30 value;

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32 b. Any law enforcement officer who is a subject of the
33 camera footage, if that officer reasonably asserts the
34 footage has evidentiary or exculpatory value;

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36 c. Any superior officer of a law enforcement officer whose
37 body-worn camera recorded the footage or who is a
38 subject of the footage, if that superior officer reasonably
39 asserts the camera footage has evidentiary or
40 exculpatory value;

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42 d. Any law enforcement officer, if the camera footage is
43 being retained solely and exclusively for police training
44 purposes;

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46 e. Any member of the public who is a subject of the camera
47 footage;

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49 f. Any parent or legal guardian of a minor who is a subject
50 of the camera footage; or
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g. A deceased subject's spouse, next of kin, or legally authorized designee.

4. Body-worn camera footage shall not be modified unless used for training purposes. Authorization to modify footage for this purpose must be documented through the chain of command to the Deputy Division Chief.

5. Any request to destroy camera footage before the time allowed by the mandated retention schedule must be submitted to the Municipal Attorney for approval prior to destruction.

6. Any intentional destruction of camera footage that fails to comply with this section may be prosecutable as a violation of AS 11.56.610, AMC section 8.30.080, or other similar provision of law.

(AO No. 2018-5, § 1, 2-13-18)

Section 4. This ordinance shall be effective one year after adoption of an initial body-worn camera policy.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2023.

Chair

ATTEST:

Municipal Clerk