

BODY CAMERA VIDEO REVIEW AND REDACTION FEE

Council Meeting
January 16, 2024





Body Camera Review and Redaction Fee



Overview

- State Statute allows Cities to charge a body camera review and redaction fee at a maximum \$46.00 per hour
- The City has completed the state requirements for adopting new fees
 - Post a 60 Notice on the City Website, posted October 20, 2023
 - Provide a written report on the proposed fee, included with posting
- The fee adoption requires a public hearing and an Ordinance to update City Code
- If Council approves the new fee at the February 6th meeting, the fee will be effective March 8, 2024

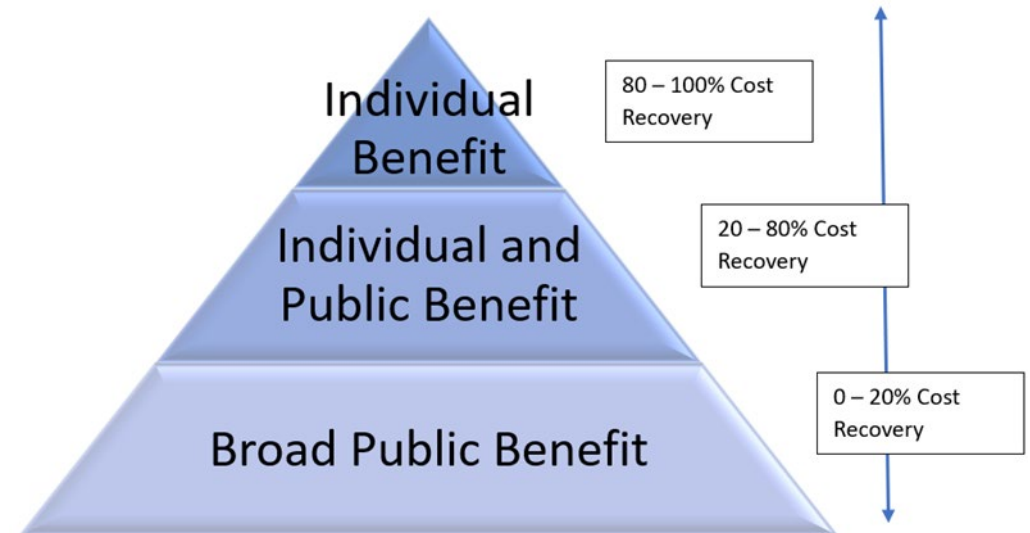


Body Camera Review and Redaction Fee



Cost Recovery

- Cost of service determined to be in excess of \$46.00 per hour
- Service aligned with Individual Benefit
- Recommend 100% cost recovery
- State Statute only allows up to \$46.00 per hour





Body Camera Review and Redaction Fee



ARS § 39-129 Local Law Enforcement Video Recording Fees

- Arizona State Legislature enacted a new law allowing local law enforcement to charge fees for reviewing and redacting body camera videos.
- Prior to the enactment of § 39-129, local law enforcement agencies were prohibited from charging fees for the reviewing and redacting of body camera footage when requests were made under public records law. The new statute sets the maximum amount for the hourly fee at \$46.00 per hour.



Body Camera Review and Redaction Fee



ARS § 39-129 Local Law Enforcement Video Recording Fees

- Except as provided in [§ 39-127](#), a county, a city, a town or any political subdivision of this state may establish a onetime fee per copy, not to exceed \$46 per video-hour reviewed, that is charged to a person who submits a public records request to a local law enforcement agency for a copy of a video recording. A county, a city, a town or any political subdivision of this state may take into consideration the following information when determining the amount of the onetime fee per copy:
 1. The reasonable cost of reviewing, transmitting, making a copy of and, as necessary, redacting the video recording.
 2. Any other relevant information.



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Body Camera Videos and Public Records Requests

- In 2014 the Flagstaff City Council approved in the Budget money for the purchase and use of Body Cameras by the Flagstaff Police Department.
- It was unknown at the time what the demand would be for copies of these videos by the public. No additional funding was contemplated nor provided to cover costs for the reviewing and redacting of body camera videos.
- Public records law allows government entities to charge fees for the cost of copying public records only, but not for the time it takes to search, locate, review or redact the records.



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Body Camera Videos and Public Records Requests

- In 2021 the Arizona State Legislature passed A.R.S. § 41-1734 allowing the Department of Public Safety (DPS) to charge fees for reviewing and redacting body camera videos.
- DPS charges \$21.33 per 30 minutes of video reviewed and redacted.
- This law only applied to DPS and not to local law enforcement.
- In 2023 the new law was passed to allow local law enforcement to also charge fees to review and redact videos.



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Flagstaff Police Department Procedures to Review and Redact

- A request is made by the public either online or in person for video connected to a particular report or investigation. The Records department processing the request and forwards it to the legal advisor for initial review.
- Legal does the initial review as the decision on what can legally be redacted is based upon public records law, including statutes and case law. If there is a challenge to what has been redacted the requestor can file an action in court against the City claiming the City improperly withheld public information.



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Flagstaff Police Department Procedures to Review and Redact

- Once the initial review is conducted a list of legally defensible and necessary redactions is provided to the Records Supervisor to redact from the videos.
- The time it takes to make redactions depends on how many are necessary on a given video. The more redactions that are needed results in more time needed to redact the videos.
- Redactions can include removing audio from the videos as well as blurring or blacking out the picture.



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Flagstaff Police Department Procedures to Review and Redact

- It is estimated it takes about 75% of the length of the video to complete the redactions. For example, it will take approximately 45 minutes to redact a video that is an hour long.
- Once redactions are made the videos are downloaded and placed on CDs or a thumb drive depending on the number of videos. It takes considerably longer to download and burn a video to a CD. For an hour-long video, it takes approximately 20 minutes to download to a CD whereas it takes about 3 minutes to transfer downloads to a thumb drive.



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Flagstaff Police Department Procedures to Review and Redact

- The hourly salary costs for review by Legal and redactions by the Records Supervisor or Lead Records Technician well exceed the cap under the state statute of \$46.00 per hour of video reviewed.
- Under Flagstaff Police Department policy Officers are required to have their cameras activated at all times they are interacting with the public. Examples of this include interviewing victims, witnesses, and suspects, conducting searches of people, homes and cars, and while transporting arrested individuals.



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Flagstaff Police Department Procedures to Review and Redact

- In the last fiscal year from July 2022 to June 2023, the Flagstaff Police Department received approximately 136 public records requests involving body camera videos. Some reports can contain one video, and some can contain 10 or more videos.
- The length of the videos can also vary from 10 to 30 minutes to up to over an hour. Of those 136 requests the time it took just to review to the videos to determine what should be redacted took over 200 hours (this is just reviewing time and does not include redacting and downloading the videos).



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Flagstaff Police Department Procedures to Review and Redact

- Requests mostly come from private citizens, insurance companies, and attorneys.
- The media makes up a small portion of requests for videos.
- Costs for videos can be managed by making requests for specific videos, such as one where a person was arrested, or ones where a particular people were interviewed as opposed to all videos in each case.
- The Flagstaff Police Department posts videos of critical incidents on their transparency page that are then used by the public at no charge.



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Staff Recommendation

- Based upon the new state law that now allows for local law enforcement to charge an hourly fee for the time it takes to review and redact body camera videos, the Flagstaff Police Department is requesting changes to the fees set forth in the Flagstaff City Code Section 3-10-001-0004 as follows:
 - A fee of \$46.00 per video hour reviewed and redacted.
 - A fee of \$30.00 for digital media storage to include CDs, thumb drives, or other digital storage media that may become available in the future.



Body Camera Review and Redaction



- Staff recommends Council
 - Read Ordinance 2024-02 for the first time at this meeting,
 - Read Ordinance 2024-03 for the second time at the February 6, 2023 meeting,
 - Adopt Ordinance 2024-03 at the February 6, 2024 meeting

QUESTIONS/COMMENTS