

TABLED

Cherokee Council House
Cherokee North Carolina

Date: MAR 02 2023

Ordinance No.: 528 (2023)

Short Title: an ordinance to except certain law enforcement recordings from release under Chapter 132-Public Records.

WHEREAS, the Cherokee Indian Police Department (CIPD) is tasked with the enforcement of criminal laws, corrections, and detention on the Qualla Boundary; and

WHEREAS, the Cherokee Law Enforcement Division is beginning to employ body-worn and in-car cameras to increase public safety and the safety and accountability of law enforcement officers; and

WHEREAS, the public records law contained in the Cherokee Code was ratified before the use of body-worn and in-car cameras was commonplace in Cherokee; and

WHEREAS, it is not feasible nor in the public interest to subject recordings made by body-worn and in-car cameras to the EBCI's public records law; and

WHEREAS, this does not limit individuals' ability to access these recordings through other provisions of the Cherokee Code, such as discovery in a criminal or civil action;

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled at which a quorum is present, that Tribal Council hereby amends Chapter 132 as follows; and

BE IT FINALLY ORDAINED that all ordinances inconsistent with this ordinance are rescinded, and this resolution shall become effective upon ratification by the Principal Chief.

Submitted by: Carla Neadeau, Chief of Police, Cherokee Indian Police Department

38 **Sec. 132-4. - Definitions.**

39 In this Article:

40 (a) *Member* means a member of the Tribe or his or her agent or representative.

41 (b) *Person* includes any individual, corporation, partnership, firm, organization, or association.

42 (c) *Public Body* means the government of the Eastern Band of Cherokee Indians and any of its
43 agencies, enterprises, entities, authorities, boards, commissions, committees, subcommittees,
44 organizations or corporations supported in whole or in part by funds created, managed, disbursed
45 or passed-through by the Tribe or which expends such funds under the care of the Tribe,
46 including any quasi-governmental body of the Tribe, the business enterprises of the Tribe and its
47 political subdivisions, including Qualla Housing Authority, the Cherokee Boys Club and
48 Vocational Opportunities of Cherokee.

49 (d) *Public record* includes all books, papers, maps, photographs, cards, tapes, recordings, or
50 other documentary materials regardless of physical form or characteristics prepared, owned,
51 used, in possession of, or retained by a public body **except as otherwise limited by this**
52 **Chapter**. Records such as income tax returns, medical records, hospital medical staff reports,
53 law enforcement investigative **files materials** and names of confidential informants, scholastic
54 records, adoption records, records related to registration, and circulation of library materials
55 **which that** contain names or other personally identifying details regarding the users of public,
56 private, school, college, technical college, university, and state institutional libraries and library
57 systems, supported in whole or in part by public funds or expending public funds, or records
58 **which that** reveal the identity of the library patron checking out or requesting an item from the
59 library or using other library services, except non-identifying administrative and statistical
60 reports of registration and circulation, and other records which by law are required to be closed
61 to the public are not considered to be made open to the public under the provisions of this act.

62 (e) *Tribal Council* or *Council* means the one legislative body of the Eastern Band of Cherokee
63 Indians. This body consists of 12 members, who are members by blood of the Eastern Band of
64 Cherokee Indians.

65 (f) *Tribe* or *Tribal* means the Eastern Band of Cherokee Indians.

66 (Ord. No. 380, 8-4-2006)

67 ...

68 **Sec. 132-13. - Law enforcement records.**

69 (a) Records of public law enforcement agencies and public safety agencies not
70 otherwise available by law that were compiled in the process of detecting and
71 investigating crime shall not be disclosed if the disclosure of the information would
72 harm the agency by:

73 (1) Disclosing **the** identity of informants not otherwise known.

- 74 (2) Prematurely releasing information to be used in a prospective law
75 enforcement action.
- 76 (3) Disclosing investigative techniques not otherwise known outside the
77 government.
- 78 (4) Endangering the life, health, or property of any person.
- 79 (b) Unless otherwise prohibited by subsection (a) or other provision of Tribal law, the
80 following are public records within the meaning of this Article and may be disclosed:
- 81 (1) The time, date, location, and nature of a violation or apparent violation of the
82 law reported to a public law enforcement agency.
- 83 (2) The name, sex, age, address, employment, and alleged violation of law of a
84 person arrested, charged, or indicted.
- 85 (3) The circumstances surrounding an arrest, including the time and place of the
86 arrest, whether the arrest involved resistance, possession or use of weapons, or
87 pursuit, and a description of any items seized in connection with the arrest.
- 88 (4) The contents of "911" and other emergency telephone calls received by or on
89 behalf of public law enforcement agencies or public safety agencies, except as
90 prohibited from disclosure in Cherokee Code Chapter 62.
- 91 (5) The contents of communications between or among employees of public law
92 enforcement agencies or public safety agencies that are broadcast over the
93 public airways.
- 94 (6) The name, sex, age, and address of a victim or complaining witness;
95 provided, however, that a public law enforcement agency or public safety
96 agency shall temporarily withhold the name or address of a victim or
97 complaining witness if **the** release of the information is reasonably likely to
98 pose a threat to the mental health, physical health, or personal safety of the
99 complaining witness or victim or materially compromise a continuing or future
100 criminal investigation or criminal intelligence operation.

101 **(c) Any recording, or part of a recording, of a Body-Worn Camera, In-Car**
102 **Camera, or law enforcement surveillance camera system to include audio, image,**
103 **or video recordings captured by a law enforcement agency or law enforcement**
104 **agency personnel when carrying out law enforcement responsibilities are not**
105 **subject to release under this Chapter. Nothing in this chapter limits the release or**
106 **disclosure of such recordings pursuant to other provisions of the Cherokee Code.**