**BILL NO.:** **4500** **ORDINANCE NO.:** _____

**Introduced by: Council Present**

**AN ORDINANCE FOR THE BERKELEY POLICE DEPARTMENT GENERAL ORDER #28 "IN-CAR AND BODY WORN AUDIO AND VIDEO RECORDINGS" POLICY**

**WHEREAS,** The City of Berkeley hereby finds and declares this ordinance is necessary, appropriate, and in the best interest of the City of Berkeley, Missouri, in accordance to the CALEA standards.

**Now, Therefore, Be it Ordained by the City Council of the City of Berkeley, Missouri,** as follows:

**Section 1** The City of Berkeley, Missouri, Council hereby adopts the attached In-Car and Body Worn Audio and Video Recordings Policy in compliance with CALEA standards.

**Section 2** This Ordinance shall be in full force and effect from and after its passage.

1st Reading this 07th day of November 2016

2nd Reading this _____ day of _____ 2016

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2016**

_____
Theodore Hoskins, Mayor

ATTEST:

_____
Deanna L. Jones, City Clerk

_____
Approved As To Form:
Donnell Smith, City Attorney

Final Roll Call:

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|---|---|
| Mayor Hoskins | Aye ___ Nay __ Absent __ Abstain __ |
| Councilwoman Hoskins | Aye ___ Nay __ Absent __ Abstain __ |
| Councilwoman Kirkland | Aye ___ Nay __ Absent __ Abstain __ |
| Councilwoman Mathison | Aye ___ Nay __ Absent __ Abstain __ |
| Councilman-at-Large McDaniel | Aye ___ Nay __ Absent __ Abstain __ |
| Councilwoman Mitchell | Aye ___ Nay __ Absent __ Abstain __ |
| Councilwoman Williams | Aye ___ Nay __ Absent __ Abstain __ |

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| | **BERKELEY POLICE DEPARTMENT GENERAL ORDER** | **GENERAL ORDERS:** 28 |

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| **IN-CAR AND BODY WORN AUDIO AND VIDEO RECORDINGS** | | |
| ISSUE DATE: 10/20/2016 | EFFECTIVE DATE: 11/21/16 | DISTRIBUTION: ALL PERSONNEL |
| AMENDED: | | RESCINDS: ALL PREVIOUS VERSIONS |
| ACCREDITATION STANDARDS: CALEA 41.3.8 | | NUMBER OF PAGES: 5 |

**PURPOSE:** The purpose of this directive is provide guidelines for the use of all audio and video recordings by officers of the Berkeley Police Department and procedures for preserving the digital media in evidence. [CALEA 41.3.8a]

**POLICY:** It is the policy of the Berkeley Police Department that all members utilize digital audio/video cameras to assist in documenting police officer contacts as they are performing their official duties. The use of audio/video recordings promote transparency and accountability of the police department, assist in the investigative process and aid in the collection of evidence. Audio/video recordings also serve as a training tool for police officers. All video recording will be completed with the safety of both the officers and the suspects as primary consideration.

This policy outlines when an officer is required to use audio/video recordings and when such use is discretionary. All audio/video recordings are the property of the Berkeley Police Department. Disclosure of the contents of videos to others shall be made in accordance with the provisions of the Missouri Sunshine Law and/or approval of the Chief of Police. [CALEA 41.3.8a]

**DEFINITIONS:**

*In-Car Camera System* – Any system that captures audio and video data; the camera, microphone, recorder and monitor.

*Body Worn Camera* (Body Camera) – A camera worn on in individual officer's person that records and stores audio and video.

**PROCEDURES:**

**Activation and Deactivation of Body Camera** [CALEA 41.3.8b]

A. The Body Camera will be affixed upon the officer's uniform at the beginning of the shift in accordance with departmental training. While some discretion with regards to placement is allowed, officers are responsible for ensuring that the specific location utilized does not obstruct the camera's recording capabilities. The Body Camera will be worn for the entire work shift.

    1. Officers will place the Body Camera into record mode in the following situations;

a) Prior to any officer initiated field contacts involving actual or potential violations of the law including traffic stops, and pedestrian or vehicle contacts;

b) Upon being dispatched to, and/or when responding to assist on, any and all calls for service;

c) When engaged with a citizen for the purpose of investigating or assisting in the investigation of suspected criminal activity.

d) While executing searches of individuals, personal property, vehicles, and premises. The Body Camera will be used to record a request for consent to search and the granting or denial of that consent. This recording is not intended to replace the use of the Consent to Search Form as required by policy.

e) When responding to calls reportedly involving potential weapons and/or violence;

f) When engaging in foot chases.

g) While taking statements from subjects, victims and witnesses. Officers shall have the discretion to deactivate a recording at the request of a non-suspect. The citizen's request should be captured on the Body Camera recording prior to deactivation.

h) If not already activated, the Body Camera will be activated to record any encounter that becomes adversarial or in any situation that the officer believes the use of the Body Camera would be appropriate or would provide useful documentation.

i) Officers shall have discretion with respect to providing advance notice to persons that a Body Camera is recording; however, if a citizen inquires as to whether a Body Camera is in use or whether a recording is being made, officers shall provide a prompt and truthful response.

j) Officers who have inadvertently activated the Body Camera during non-law enforcement related activities (i.e. meal breaks, restroom breaks, etc.) shall make an email request to the immediate supervisor, to have the recording deleted and shall include the reason(s) for the request. Prior to deletion, the video in question will undergo a second level of review by the Supervisor and Commander to ensure that the device only captured a non-law enforcement related recording. The original email and subsequent approval will be retained by the Office of the Chief of Police for 90 days.

B. Use of the Body Camera is prohibited in the following situations:

1. To record conversations involving Department employees that are not required to be captured pursuant to this policy.

2. In places where a heightened expectation of personal privacy exists, such as locker-rooms, dressing rooms, or restrooms unless the recording is for the

purpose of official law enforcement activities and no uninvolved parties remain present.

3. To record confidential informants or undercover officers.

4. To record strip searches.

5. In patient care areas of a healthcare facility other than to document injuries for official law enforcement purposes. Officers should take special care to ensure to record only the parties involved in the event being investigated.

6. To record judicial proceedings in courtrooms and the Magistrate's Office unless express permission is given beforehand by the presiding judicial official.

7. To record communications between a defendant and his/her attorney.

8. To record activities that are not official law enforcement functions.

**Activation and Deactivation of In-Car Camera System**

A. Officers will utilize the In-Car video system on all traffic stops and should also record any time when, at the officer's discretion, the recording of events would further the police mission or as deemed as a critical video. Officers should not limit themselves to the use of In-Car video for just traffic.

B. Officers who operate vehicles equipped with In-Car video are required to activate their systems and record any pursuit regardless of position.

C. Recordings should not contain gaps or missing sections. The recorder should be operated until the incident or conversation has been concluded.

D. AM/FM radios will be turned off immediately when in-car video and audio equipment is activated. Officers are reminded that audio equipment records virtually all sounds within range, including conversation.

E. Officers will wear the wireless microphone unit and ensure that it is switched to the "on" position at all times. Officers are required to wear the wired microphone when available and position it upon their person where as to obtain the best audio recording as possible.

F. The system triggers recording upon the activation of emergency equipment, activation of vehicle collision sensors or upon manual activation. The recording continues until the officer presses the stop button.

G. Officers will be required to sign off the camera system upon the completion of their tour of duty.

**Criminal and Administrative Use** [CALEA 41.3.8c]

A. When an arrest is made, the audio or video recording becomes evidence. Recordings are captured and saved using secure digital cards (SD Card) stored within the recording device. The officer shall label the completed audio or video SD card with the officer's name, DSN number, suspect's name, and case number and place the audio or video recording into Property & Evidence in accordance with departmental policy to maintain the security and integrity of the evidence.

B. Disposition of audio or video recordings following the end of evidentiary value or case completion will be determined by Property and Evidence Procedures. These secure digital cards (SD Card) may be erased and re-issued to officers.

1. The officer shall indicate the count number for the beginning of the incident and the end of the incident on the evidence card and on the label that is to be placed on the SD card. This is done so that Property and Evidence has a reference when making copies and does not make copies of recordings not pertinent to the case.

2. One SD card per case is required by Property and Evidence for submission.

3. This includes all audio or video recording that result from a pursuit.

**Storage and Retention** [CALEA 41.3.8d]

A. Traffic Stop and non-criminal event digital recordings shall be stored to an external hard drive until it reaches capacity.

B. Criminal event (Drug Arrest, DWI, & other criminal acts) digital recordings will be purged as necessary by Evidence and Property personnel.

**Maintenance and Inspection** [CALEA 41.3.8e]

A. Upon beginning their tour of duty, officers will sign onto the camera system and will immediately inspect the equipment. Officers will notify a supervisor if there is any indication of a malfunction of the equipment at any time.

B. Officers operating vehicles equipped with mobile camera equipment shall verify the following:

1. The windshield and camera lens are free of debris.
2. Dashboards shall remain free of any paper or objects.
3. The camera is facing the intended direction.
4. Both audio and video recorders are working properly.

C. The Fleet Supervisor or designee shall be responsible for installation, maintenance inspections, cleaning and repairs of all In-Car and Body Worn Camera systems and related equipment as recommended by the manufacturer as necessary for operation.

**Training** [CALEA 41.3.8f]

All video camera operators will be trained on how to properly use and care for the equipment. Officers utilizing the video/audio equipment will be trained in proper legal procedure for recording incidents.

**Review Process** [CALEA 41.3.8g]

A. Recordings may be viewed in any of the following situations:

1. As evidence in a criminal, civil or internal affairs investigation.
2. By the officer viewing recordings from their assigned recorder.
3. By a Supervisor reviewing general or specific incident performance issues.
4. Recordings may also be viewed for training purposes.

B. Sergeants who have personnel assigned to them who wear a body camera are required to conduct daily inspections. The inspections will assure that the Body Camera is being used to record enforcement related contacts and other incidents as set forth in this procedure. Inspection results will be entered and forwarded to the respective Captain for review and approval.

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| **DRAFTED BY:** Eye-Liza Conner | DATE: 10/17/16 |
| **BY ORDER OF:**<br><br>**ART JACKSON**<br>**INTERIM CHIEF OF POLICE** | DATE: 10/19/16 |
| **APPROVED BY:** Public Safety Committee | DATE: 10/20/16 |
| **APPROVED BY:** Berkeley City Council | DATE: 11/21/16 |