

Berkeley Police Department General Order Revision Form

SUMMARY OF CHANGES

07/16/2025

G.O. 28 – IN-CAR AND BODY WORN AUDIO AND VIDEO RECORDINGS

Page 6-

Criminal and Administrative Use

The terminology and procedure were updated.

- A. **“In instances** when an arrest is made, the audio or video recording **may be used as** evidence. The officer **will save the recording(s) on a storage device (DVD, Discs, SSD, ect.)** and place the recording into Property & Evidence following 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 **storage devices (SD)** may be erased and reissued to officers.

Respectfully Submitted,

Captain Evelio Valdespino, DSN 419

	BERKELEY POLICE DEPARTMENT GENERAL ORDER	GENERAL ORDER: 28
IN-CAR AND BODY-WORN AUDIO AND VIDEO RECORDINGS		
ISSUE DATE:	EFFECTIVE DATE:12/10/2019	DISTRIBUTION: ALL PERSONNEL
AMENDED:	RESCINDS: ALL PREVIOUS VERSIONS	
ACCREDITATION STANDARDS: CALEA 41.3.8		NUMBER OF PAGES: 10

PURPOSE: The purpose of this directive is to provide guidelines for the use of all audio and video recordings by officers of the Berkeley Police Department so officers may record their contacts with the public under the law, and procedures for preserving the digital media in evidence. [CALEA 41.3.8.a]

POLICY: It is the policy of the Berkeley Police Department officers to activate Body Worn Cameras, and/or vehicle audio/video cameras, to assist in documenting police officer contacts as they are performing their official duties, where the recordings are consistent with this policy and law. The use of audio/video recordings promotes transparency and accountability of the police department, assists in the investigative process, and aids in the collection of evidence. Audio/video recordings also serve as a training tool for police officers. All video recordings will be completed with the safety of both the officers and the suspects as the primary consideration. This policy does not govern the use of surreptitious recording devices in undercover operations. This policy will maintain compliance with applicable requirements of state law concerning the retention, storage, and release of BWC and/or In-Car Dash camera recordings and related information.

All audio/video recordings are the property of the Berkeley Police Department. Disclosure of the contents of videos to others shall be made following 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 commercially produced car-mounted video/audio recording system that captures audio and video data; the camera, microphone, recorder, and monitor.

Body Worn Camera (BWC) – A commercially produced digital video/audio camera system worn on an individual officer's person that records and stores audio and video.

Personal Recording Device – Any system, camera, or device not owned or maintained by the Berkeley Police Department

Mobil video Recorder – Any system or device that captures visual signals, that is capable of installation and being installed in a vehicle or being worn or carried by personnel of a law enforcement agency, and that includes, at minimum, a camera and recording capabilities (RSMo 610.100)

Mobile Video Recording – Any video/audio incident recorded on the body-worn camera, or car camera (RSMo 610.100)

Case – A record created under the associated report number of an incident. A case contains a collection of identifying information and video files.

Case – A record created under the associated report number of an incident. A case contains a collection of identifying information and video files.

Non-public Location – Any location where one would have a reasonable expectation of privacy, including, but not limited to, a dwelling, school, or medical facility (RSMo 610.100). This is extended to restrooms and locker rooms.

PROCEDURES:

Administration.

The department has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

- A. BWCs allow for documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
- B. Recordings enhance the department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes, and to provide additional information for officer evaluation and training.
- C. BWCs may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

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

- A. All uniformed patrol personnel will be issued a BWC. Officers assigned BWC equipment will use the equipment in the manner expected unless otherwise authorized by the Chief of Police.
- B. The BWC will be worn on the officer's uniform in the manner prescribed by the device manufacturer and training curriculum at the beginning of the shift.
- C. 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 BWC will be worn and utilized for the entire work shift.
 - 1. Activation - Officers will place the BWC into record mode in the following circumstances, which include but are not exclusive to;
 - a) Before any officer-initiated field contacts involving actual or potential violations of the law, including traffic stops, pedestrian or vehicle contacts;
 - b) Upon being dispatched to, and/or when responding to assist on, any and all calls for service, including non-emergency calls for service;
 - c) When engaged with a citizen to investigate or assist 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 by covering the camera lens or facing it away. The citizen's request should be captured on the BWC recording before the deactivation of the video; however, the audio is to continue to be recorded.
- h) If not already activated, the BWC will be activated to record any encounter that becomes adversarial, or in any situation that the officer believes the use of the BWC would be appropriate or would provide useful documentation.
- i) During the transportation of all prisoners and the conveyance of civilians, such as witnesses.
- j) During the booking process of prisoners;
- k) The BWC shall remain activated until the event is completed to ensure the integrity of the recording.

2. Deactivation

- a. 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. Should a citizen request deactivation of the video recording device, their request should be captured on the BWC recording before deactivation of the video, by covering the camera lens or facing it away; however, the audio is to continue.
- b. The contact moves into an area restricted by this policy unless it is a law enforcement activity, and the deactivation does not outweigh any law enforcement interest in recording.
- c. The recording of the contact and event is completed.
- d. The recording no longer serves a direct law enforcement purpose or is no longer capturing a law enforcement activity.
- e. Officers who have inadvertently activated the BWC 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. Before 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.

3. Discretionary use

- a. Under RSMo 542.402, the State of Missouri recognizes that recorded communications require only one-party consent, where that person is a party to the communication. Therefore, officers have no duty to inform individuals that they are being recorded. However, if it is to the perceived benefit that notification may reduce conflict and potential use of force, the

officer will notify the individual(s) of the active recording, time, and safety permitting.

- b. Officers will be sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by adjusting the method in which the law enforcement activity is recorded. Methods of discontinuing recording will be used whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. The following methods shall be used as circumstances dictate:
 1. When video recording is reasonably inappropriate (i.e levels of undress), the officer will continue to record the sensitive event by positioning the device's video recording lens in a manner not to video record the sensitive event by covering the camera lens or facing it away. This method will allow the continuous recording of audio during the sensitive event. Time and safety permitting, the officer will vocalize the reason and intention for their actions so that it is audio recorded by the device. Requests by the citizenry to terminate a recording will be weighed in the same manner. Recording will resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.
 2. When audio and video recording is reasonably inappropriate, the officer will deactivate the device to terminate audio and video recording of the sensitive event. Time and safety permitting, before device deactivation, the officer will vocalize the reason and intention for their actions so that it is audio recorded by the device. Requests by the citizenry to terminate a recording will be weighed in the same manner. Recording will resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.
 3. When a citizen, who is not a victim, elects to submit anonymous information to an officer, the officer shall record the submission of the anonymous information. However, officer discretion will incorporate and weigh the value of the information and associated environmental factors with respect to protecting the identity of the citizen, as it concerns the necessity to record the interaction. Requests by the citizenry to terminate a recording will be weighed in the same manner. If a recording is terminated, the recording will resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.
- c. Officers are encouraged to inform their supervisor of any recordings that may be of value, including but not exclusive to potential citizen complaints and training purposes.

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

1. To record conversations involving Department employees who are not required to be captured according to this policy.
2. In non-public locations 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 that only the parties involved and being investigated are recorded.
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.
9. Civilian review of BWC recordings at the scene where the recordings were captured is prohibited.
10. Unless otherwise stated in this policy, an officer reviewing the BWC-generated recordings from another officer is prohibited.
11. Use of personal recording devices while on duty is prohibited.
12. Officers shall not edit, alter, erase, or duplicate in any manner BWC recordings without prior written authorization and approval of the Chief of Police or their designee.
13. BWC is to be either deactivated, lens covered, or faced away from the computer screen when using the REJIS/MULES/NCIC database system

Activation and Deactivation of In-Car Camera System

- A. When using a vehicle with an In-Car video system, 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 is deemed 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 to obtain the best audio recording 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.

Documenting

- A. Officers shall note in the incident, arrest, and other related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.
- B. The use of BWCs will be documented in the following reports, which include but are not exclusive to CARE reports, use of force reports, vehicle pursuit reports, and on documentation issued to drivers and passengers of traffic stops. Device malfunctions and premature termination of recordings will be documented in the same fashion.
- C. If a BWC captured event is not associated with any type of police report but is perceived as having value to the Department, such as an event that may prompt a potential citizen complaint, the officer identifying the recording as such will make a request through the chain of command to maintain the recording.

Criminal and Administrative Use [CALEA 41.3.8c]

- A. **In instances** when an arrest is made, the audio or video recording **may be used as evidence. In this instance**, the officer **will save the recording(s) on a storage device (DVD, Discs, SSD, ect)** and place the recording into Property & Evidence following 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 **storage devices (SD)** may be erased and reissued 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. 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 per case is required by Property and Evidence for submission.
 - 3. This includes all audio or video recordings that result from a pursuit.

Data Storage and Retention [CALEA 41.3.8d]

- A. Video data files will be uploaded to a secure server within the police building by each officer at the end of the shift. In the event of a transmission failure, notification will be made to the supervisor responsible for system maintenance.
- B. Any record file of value for case prosecution or in any adversarial proceeding shall be retained. Examples of such records include DWIs, arrests, uses of force, and resisting arrest cases. Any file marked priority and tagged case files will remain on the server for ninety (90) days, at which time they will be auto-archived. Any files not marked priority will automatically be purged from the system after thirty (30) days.
- C. Officer requesting a file be retained, copied, reclassified, or deleted shall do so by filing and submitting a memorandum to their supervisor with a reason for such (e.g., court, training, evidence, accidental, etc.).

- C. Officer requesting a file be retained, copied, reclassified, or deleted shall do so by filing and submitting a memorandum to their supervisor with a reason for such (e.g., court, training, evidence, accidental, etc.).
- D. When a prosecutor requests a record for a court proceeding, the officer shall make a request via memorandum. This request will be forwarded to the Commander assigned to oversee the use of this equipment. A DVD will then be made for the prosecutor.
- E. In those instances where the request is from someone other than a prosecutor for purposes of criminal prosecution or civil litigation, or for another purpose, such requests shall be directed to the City Clerk and the Office of the Chief of Police, to ensure compliance with department policy and procedures and;
- F. Missouri Open Records Law (Missouri Sunshine Law), respectively. Additionally, requests made by a defense attorney will be made at the advice of the prosecutor when a discovery has been made.
- G. The server and workstation shall remain secure always. No record is to be uploaded/downloaded, and no maintenance shall be performed on video/audio recording equipment by anyone other than authorized personnel. Personnel will be authorized according to specific levels of security that are password protected.
- H. To maintain record security, access levels will be identified as follows:
 - 1) Main System Administrators-access to all system functions.
 - 2) Supervisors-ability to view any record as well as the ability to create, edit, and dispose of cases and to download records. This shall include personnel delegated by the command staff to monitor these records.
 - 3) Officers-ability to view records.
- I. It will also be the duty supervisor and system administrator to confirm that the video data is successfully uploading to the server.
- J. Audio/Video files will be stored on the server, which shall remain secure always. Access to the system will be gained according to the levels of security established in this Order, via the workstation, and file retention/ deletion will occur based on the priority level given to each file and/or at the discretion and direction of the system administrator.

Retention and Release

- A. Retention. Recordings will be securely stored following state records retention laws and no longer than is useful for purposes of training or use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under the control of a criminal justice agency. The Department will abide by the guidelines as set forth by the State of Missouri.

Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255 authorizes the Local Records Board to establish minimum retention periods for the administrative, fiscal, and legal records created by local governments.

Pursuant to the Police Clerks Records Retention Schedule, the following is pertinent:

1. POL 011, Audio/Video Recordings, which are also referred to as Car Audio/Video recording; Booking Surveillance; Surveillance; Body Camera video; License Plate Reader

2. Retention 30 Days—Evaluate--Managers should extract significant information that may impact criminal or major case investigation before deleting video/reusing the tape. Extracted video must be retained until administrative/judicial proceedings are complete. This retention does not apply to interrogation videos, which are by their nature evidentiary and should be part of the investigative files.

For retention and management of BWC recordings, all recordings that remain on the storage server after 30 days will be permanently removed from the video evidence management system.

- B. Release. The release of mobile video recordings, including BWC recordings, external to that of the Department will be done so following RSMo 610.100 and any other state laws that impact the release of these types of records. For a comprehensive understanding of the release of mobile video recordings, state law, and other validated resources on such matters will be reviewed and considered prior to the release of any BWC recordings. The Chief of Police or his designee reserves the authority to approve the release of all BWC recordings.

Maintenance and Inspection [CALEA 41.3.8e]

- A. Upon beginning their tour of duty, if used, 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.
- A. 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.

A. Body Worn Cameras:

1. All officers required to wear and use BWCs will receive initial training by an approved training provider. Training will include, at minimum, an in-depth review of department BWC policy, a course of instruction that addresses the technical operations, maintenance, and inspection of the device and related equipment, and practical application demonstrating a satisfactory level of competency derived from the training process. Only officers who have completed the BWC training program may deploy a BWC for any legitimate law enforcement purpose consistent with this policy.
2. Any personnel not required to wear and use BWCs will receive training on the general functionality, maintenance, and inspection of the device and related equipment, and an in-depth review of department policy.
3. Officers shall receive training refreshers as needed by an approved training provider.

Review Process [CALEA 41.3.8g]

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

1. By a Supervisor or Commander as evidence in a criminal, civil, or internal affairs investigation, pursuits, and use of force encounters.
2. By the officer viewing recordings from their assigned BWC, and/or vehicle camera, pursuant to official reporting, including, but not exclusive to, a formal report, use of force incidents, vehicle pursuits, traffic stops, and court.
3. By a Supervisor reviewing general or specific incident performance issues, per the guidelines on Supervisors' Responsibilities as outlined in this policy.
4. Command and supervisory personnel will review audio/video files as follows:
 - a) To assess officer performance, via the periodic review of files selected at random to ensure officer policy compliance.
 - b) To identify material that may be useful in training.
 - c) Regarding a complaint against an officer.
 - d) Following a vehicular pursuit.
 - e) For evidentiary purposes.
5. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the Chief of Police, or designee, reserves the right to limit or restrict an officer from viewing the video file.

Supervisory Responsibilities

Supervisory personnel responsible for the activities of officers assigned BWCs and dash cameras shall ensure that:

1. Officers follow established policy and procedures for the use and operation of the BWC and the dash camera equipment.

5. Monthly, supervisors will randomly select and review BWC recordings of each officer under their scope of control to ensure that the equipment is operating properly and that officers are using the BWCs appropriately and per the policy. Further, to identify any areas in which additional guidance is needed.
6. The review shall be documented and kept as part of a log for each shift supervisor and submitted to the patrol commander monthly.

Access

The Chief of Police and Commanders will have access to BWC recordings produced by the entire department. Line-level supervisors will have access to their own recordings and the recordings of officers under their scope of control. Line-level officers will only have access to their own recordings. The viewing of recordings shall not be extended beyond those who have defined access, such as officers who are not employees of the Department and civilians, unless approved by the Chief of Police or their designee.

Audit and Policy Review

- A. All access to BWC data must be specifically authorized by the Chief of Police, and all access is to be periodically audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. The devices, hardware, accessories, software, and its use will be audited annually and documented in a report to the Chief of Police.
- B. The BWC General Order will be reviewed annually at the same time as the audit.

DRAFTED BY: Captain Evelio Valdespino	DATE:
REVIEWED BY: ART JACKSON CHIEF OF POLICE	DATE:
APPROVED BY: Berkeley City Council	DATE: