

BILL NO.: 4589

ORDINANCE NO.: _____

Introduced by: Council Present

AN ORDINANCE FOR THE BERKELEY POLICE DEPARTMENT GENERAL ORDER #59 "TRAFFIC ENFORCEMENT" 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 Traffic Enforcement Policy in compliance the CALEA standards.

Section 2 The attached agreement is hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3 This Ordinance shall be in full force and effect from and after its passage.

1st Reading this 04th day of December 2017

2nd Reading this _____ day of _____ 2017

3rd Reading, PASSED and APPROVED, this _____ day of _____ 2017

Theodore Hoskins, Mayor


ATTEST:

Deanna L. Jones, City Clerk

Approved As To Form:
Donnell Smith, City Attorney

Final Roll Call:

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 ___

	BERKELEY POLICE DEPARTMENT GENERAL ORDER	GENERAL ORDERS: 59
TRAFFIC ENFORCEMENT		
ISSUE DATE: 12/1/17	EFFECTIVE DATE: 12/18/2017	DISTRIBUTION: SWORN PERSONNEL
		RESCINDS: ALL PREVIOUS VERSIONS
ACCREDITATION STANDARDS: CALEA 46.2.7, 46.3.2, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.7		NUMBER OF PAGES: 9

PURPOSE: The purpose of this directive is to establish procedures and guidelines for stopping traffic violators and enforcing traffic violations.

POLICY: It is the policy of the Berkeley Police Department to issue traffic citations or give appropriate warnings, at the discretion of the Officer, to all who are observed violating any of the State of Missouri traffic laws. Most of these violations are not of a criminal nature, and violators should be treated with the utmost courtesy and respect.

RULES AND PROCEDURES:

UNIFORM ENFORCEMENT [CALEA 61.1.2]

Officers should take appropriate action for each violation of traffic law witnessed or reported to the Police Department. The ultimate goal is to achieve voluntary compliance with traffic laws and thereby reduce the number of traffic crashes. All enforcement actions will be accomplished in a fair, impartial and courteous manner using one of the following three methods:

1. Verbal Warning: A verbal warning is a proper alternative by police officers in response to some violations. Police officers may use verbal warnings at their discretion in those areas where traffic crash potential is minimal. [CALEA 61.1.2 c]
2. Citations: The issuance of a traffic citation is applicable in most cases for those violators who commit a minor traffic offense which jeopardizes the safe and efficient flow of vehicular and pedestrian traffic whether those violations are moving, parking or safety and equipment violations, pursuant to Missouri Revised Statutes and the City of Berkeley Ordinances. [CALEA 61.1.2 b]
3. Physical Arrest: Officers may affect the arrest of any person in violation of a traffic crime as allowed by Missouri Revised Statutes. All decisions relating to physical custody must be based on sound legal principles and consistent with G.O. 3, Compliance with Constitutional Requirements. [CALEA 61.1.2 a]

VEHICLE STOPS

- A. Sworn members are authorized to stop and inspect vehicles and their occupants in order to enforce traffic laws, to assist in investigations, or to stop criminal activity.
- B. Vehicle traffic stops may develop into serious confrontations or pursuit situations. Officers must be prepared to react accordingly. No vehicle, marked or unmarked, will

be used to conduct vehicle stops without the use of audible and visible emergency signal devices.

- C. Officers are authorized to conduct vehicle stops for traffic violations, selective enforcement, investigations, cases involving criminal activity, or when there is reasonable belief that delay may result in injury or loss of life.

STOPPING AND APPROACHING THE TRAFFIC VIOLATOR [CALEA 61.1.7 a]

- A. Upon stopping violators for any reason, officers will take all steps and precautions necessary to assure their safety and the safety of others.
- B. Varying conditions regarding the engineering of the particular roadway, the urgency of the stop (drunk driver), and the existing volume of traffic may dictate adjusting or altering the recommended procedure. These procedures are to be followed when possible.
 - 1. When stopping a vehicle, the officer will notify Communications personnel of the location of the traffic stop, the license number, the number of occupants in the vehicle, vehicle type, color and any other distinguishing characteristics, i.e., dents, lights out, etc.
 - 2. The officer should anticipate the appropriate location to stop the violator by considering space, lighting, curves, intersections, private drives, etc.
 - 3. The officer should signal the violator to stop with emergency lights, hand signals, and the siren. These signals also alert other drivers of the officer's intent.
 - 4. The violator should be signaled and directed to the side of or off the roadway, onto a side street, and away from heavy traffic.
 - 5. Should the violator stop abruptly in the wrong lane or in another undesirable location, the driver should be promptly directed to move to a safer location by using the public address system.
 - 6. The violator should not be permitted to move his/her vehicle once it has stopped if it is suspected the driver is under the influence to the extent that his driving ability is impaired.
 - 7. Once the violator has stopped in an appropriate location, the officer should position the patrol vehicle in a safe manner.
 - 8. The officer may approach from the rear of the violator's car on either side, looking into the rear seat area and ensuring a safe approach.
 - 9. In those cases where the violator's car has occupants in both the front and rear seats, the officer should be alert for any unusual actions on the part of the occupants and choose a path so the door of the vehicle cannot be used as a weapon.
 - 10. In those traffic stops made by two-person patrol vehicles, the passenger officer should exit from the vehicle and act as an observer and cover for the approaching officer.

HIGH RISK STOPS [CALEA 61.1.7 b]

- A. When an officer locates a vehicle driven by a known or suspected felon, the officer will notify Communications personnel immediately of the location, a thorough description of the vehicle and a description of the occupants.
- B. The officer will keep the suspect vehicle within view and request sufficient assistance to make a high risk stop. The officer will keep the responding units informed of the location and direction of travel to facilitate their approach with minimal use of emergency equipment. The suspect vehicle will not be stopped, unless absolutely necessary, until adequate backup is available and in position. The following procedures will be used during a high risk stop:
 1. The officer will plan to stop the suspect vehicle in a location which presents minimal danger to other citizens.
 2. When conditions are appropriate and backup units available, the officer will move into position to the rear of the suspect vehicle.
 3. The officer will signal the violator to stop, utilizing all emergency equipment to alert the violator and warn others.
 4. When the suspect begins to stop, the officer will turn off the siren and activate the public address system.
 5. The officer will park the patrol vehicle so that it provides maximum protection and cover.
 6. The officer should order the driver out of the vehicle with the public address system.
 7. At night, all lights, including spotlights, will be focused on the interior of the suspect vehicle to the disadvantage of the violator.
 8. The officer in command will direct each occupant, utilizing the public address system, to exit the vehicle individually, according to specific directions, and into the appropriate search position, after which an approach may be made by an officer. Each subject will be searched and secured prior to removing the next occupant.
 9. If a public address system is not available, the officer in command will give voice commands. If not heard or ignored by the suspect, the officer will ensure backup officers are in position prior to approaching the vehicle.
 10. The support officer(s) will cover the arresting officer and remain on the curb side of the vehicle until all occupants have exited and are in the search position.
 11. The support officer should not give additional commands as this could tend to confuse the suspects.
 12. Extreme caution will be exercised by officers to avoid getting within each other's line of fire.

13. Subjects will be secured in a manner in which the officers have been trained.

VIOLATOR PROCEDURES

Foreign Diplomats/Consular Officials [CALEA 61.1.3 d]

1. Diplomatic and consular officers shall be accorded their respective privileges, rights, and immunities as directed by International and Federal statute. These officials shall be treated with the courtesy and respect that befit their distinguished positions. At the same time, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.
2. Diplomatic immunity, a principle of international law, is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, official staff, and servants, who are not nationals of nor permanently reside in the receiving state. They are protected by unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense under current U.S. Law (22 U.S.C. 252).
3. Ambassadors and ministers are the highest ranking diplomatic representatives of a foreign government. Other diplomatic titles are Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, and Attaché. Diplomatic officers, their families, official staff and servants are protected by unlimited immunity from arrest, detention or prosecution with respect to any civil or criminal offense.
4. Career consular officials can be identified by credentials issued by the State Department. The State Department credential bears its seal, the name of the officer, his title, and the signatures of the State Department officials. Honorary consular officials do not receive identification cards from the State Department, but may exhibit reduced size copies of the diplomatic note evidencing recognition by the United States Government. These individuals are not immune from arrest or detention. Family members of a Consular Officer cannot claim immunity.

NON-RESIDENTS, STATE LEGISLATORS, JUVENILES, AND MILITARY PERSONNEL

- A. Non-residents, State Legislators, and Military Personnel committing violations of Missouri traffic laws should not be afforded special consideration and should be warned, cited, or arrested as appropriate. As in all cases, discretion is advised. [CALEA 61.1.3 a, c, e]
- A. Physical Arrest of Military Personnel - When a physical arrest is made, the investigating officer's supervisor should notify the liaison officer of the nearest Armed Forces Investigative Headquarters Division. This does not apply to the issuance of a traffic citation when an actual physical arrest is not made. [CALEA 61.1.3 e]
- B. Traffic Crash Involving Military Personnel - Whenever Active Duty armed forces personnel are involved in a traffic crash, and are either killed or injured to the extent that they are incapacitated, the supervisor will notify the nearest Armed Forces Investigative Headquarters Division.

- C. United States Senators and Representatives - Officers of the United States Congress should in all cases, except treason, felony and breach of the peace, be immune from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house.
[CALEA 61.1.3 c]
- D. Juveniles - Generally, juveniles over the age of 15 who have committed a traffic violation will not be placed in custody, but will be issued a traffic citation with the following exceptions: [CALEA 61.1.3 b]
1. Driving while impaired by alcohol or drugs.
 2. Manslaughter by automobile.
 3. Driving after revocation or suspension of license.
 4. Leaving the scene of a crash with injuries.
 5. Willful and wanton reckless driving and fleeing to elude a law enforcement officer. As in all cases where a juvenile is taken into custody, the officer is responsible for notifying the juvenile's parents as soon as possible as to the circumstances. Should the officer deem further custody is required pending a hearing, he must contact the Juvenile Justice Center for authorization. The Juvenile Justice Center will make the determination to detain or release the juvenile.
- F. In the event an officer observes a traffic violation committed by a physician while in route to an alleged emergency, the following procedures will be taken:
1. Upon determining that the driver is a physician, the officer will obtain the identity and intended destination of the physician.
 2. In the event the traffic violation committed was of a serious and dangerous nature, the officer will verify the nature of the emergency and the physician's identity. The officer should release the physician and may take appropriate enforcement action later.

OFFICER/VIOLATOR CONTACT

- A. Officers should strive to make each violator contact professional and educational.
- B. Once the officer stops the violator, approaches, and begins communication, the officer should:
1. Be alert for the unexpected, but not be overly apprehensive.
 2. Be prepared for the contact by having the necessary equipment and forms.
 3. Decide on appropriate enforcement action based upon the violator's driving behavior.
 4. Greet the violator in a courteous manner.
 5. Inform the violator what traffic law has been violated and the intended enforcement action.
 6. Ask for the specified documents.
 7. Use a body camera or in-car video system during the violator contact.
 8. Complete Uniform Traffic Citations (UTC) required for the enforcement action in accordance with the current instructions of Missouri Revised Statutes or provide a warning to the violator. [CALEA 61.1.2 b]

9. Obtain the violator's signature if a citation is issued and explain it is not an admission of guilt but an agreement to comply with the instructions. [CALEA 61.1.4 d]
10. Explain to the violator the procedure for complying with the citation as specified by the Clerk of the Court and point out the information sections on the violator's copy of the citation. [CALEA 61.1.4 d]
 - a. Criminal Violation – Explain that a court appearance is mandatory and provide the court date/time/location ensuring it is clearly printed on the citation. [CALEA 61.1.4 a]
 - b. Infraction/Court Appearance Required – Explain that a court appearance is mandatory and provide the court date/time/location ensuring it is clearly printed on the citation. [CALEA 61.1.4 a]
 - c. Infraction – Explain that a court appearance is not required and the violator may pay a fine in lieu of a court appearance. Ensure the violator's copy of the citation is completed and explain all options available to the violator. [CALEA 61.1.4 b, c]
11. Return the violator's documents and provide a copy of the citation(s) if issued.

UNIFORM ENFORCEMENT POLICIES

- A. Uniform enforcement of private, public carrier and commercial vehicles is a critical element of an effective traffic enforcement program. The following uniform enforcement guidelines are established.
- B. Multiple Moving Violations - An officer should not refrain from issuing a citation for a second moving violation when the violation is serious enough to merit a citation. Exceptions to this are those situations where two violations are similar and the law exists for the purpose of compliance with the other law. [CALEA 61.1.5 c, f]
- C. Multiple Non-Moving Violations - Generally, one citation will be issued in the case of related, multiple, non-moving violations stemming from the same operation. Examples of related violations are: [CALEA 61.1.5 d, f]
 1. Failure to transfer title and non-registration.
 2. Operating unregistered vehicle and failure to transfer title.
 3. Illegal towing combination and over-length.
 4. Load extending over-side and over-width.
 5. Failure to comply with marking regulations and empty weight not lettered on vehicle. In cases such as these, where the elements of one offense are closely related to the element of the second offense, one citation will insure compliance and the second should not be written.
- D. Multiple Moving and Non-Moving Violations - In all instances, multiple violations found which can be classified separately as moving and non-moving will be dealt with independently. A motorist stopped for following too closely and subsequently found to be operating without a driver's license will be issued separate citations. This

does not mean that the officer cannot issue a warning and citation if, in his/her opinion, the case merits such actions. [CALEA 61.1.5 c, d, f, h]

- E. Equipment Violation - When a vehicle is found to be in violation of several equipment requirements, a citation should usually be issued for the most serious violation. This action should be taken even when each violation independently is worthy of only a warning. Only one citation will be issued for such multiple equipment violations unless each warrants a separate citation. Whenever a fixture is missing and it is obvious that the owner is aware of the defective equipment, a citation should be issued even though this may be the only violation on the vehicle. [CALEA 61.1.5 f]
- F. Speed Enforcement - It will be the practice to issue warnings for speed violations up to and including 5 miles over the posted limit. However, nothing contained herein should prohibit any officer from issuing a speeding citation for a violation of the speed limit, regardless of speed, if the situation so merits. [CALEA 61.1.5 c]
- G. Newly Created Statutes and/or Ordinances - It is the policy of the department to issue warnings for a period of 30 days after the date of a law or ordinance becomes effective. [CALEA 61.1.5 g]
- H. Public Carrier/Commercial Vehicle Violations - It is the policy of this department to enforce traffic violations involving public carrier and commercial vehicles. [CALEA 61.1.5 e]
- I. Violations Resulting in Traffic Crashes - It is the policy of this department to investigate crashes and to take the necessary enforcement action for violators. The officer investigating the traffic crash will determine what enforcement action, if any, should be accomplished after conducting the complete investigation. [CALEA 61.1.5 h]
- J. Seatbelt Violations - Failure to fasten seatbelts contributes to more fatalities than any other traffic safety related behavior. One of our highest priorities is safety and strict enforcement of the applicable seat belt usage and child restraint laws remains the single most effective action to save lives and reduce injuries on our roadways. It is the policy of this department to fully enforce Missouri Statutes and City of Berkeley Ordinances that relate to passengers seatbelts, child restraints and child car seats.

PEDESTRIAN AND BICYCLE TRAFFIC LAW ENFORCEMENT [CALEA 61.1.5 i]

- A. Officers will take appropriate enforcement action when and where pedestrian and/or bicycle traffic violations are observed.
- B. Pedestrian Enforcement - Officers will concentrate their efforts on pedestrian violations in those areas where pedestrian crashes have been frequent and severe.
- C. Bicycle Enforcement - The use of bicycles as a major means of transportation, both for business and recreation, has resulted in an increase in fatal and personal injury crashes. It is inherent in the role of law enforcement to enforce those laws relating to the safe operation of bicycles. In this regard, officers have a unique challenge with regard to their discretion in applying those laws. The following procedures are guidelines to discretion which should result in a more uniform and consistent application of the law.

1. In those areas where congestion and the frequency of traffic crashes involving bicycles have been predominant, those laws pertaining to the proper operation of bicycles will be strictly enforced.
2. In those areas where traffic flow is minimal, visibility is unobstructed and traffic crashes low, officers should exercise discretion in the application of those laws regarding the safe operation of bicycles.

PUBLIC CARRIER/COMMERCIAL RECREATIONAL VEHICLES [CALEA 61.1.5 e]

Officers will take appropriate enforcement action for violations committed by operators of public carrier/commercial vehicles that are observed and/or reported, particularly in the following circumstances:

1. Removal of unlicensed vehicles from streets and highways.
2. Misuse of public trails.
3. Improper use of street and highway crossings.
4. Citizen complaints of excessive noise, trespass and/or property damage.

SPECIAL EVENTS [CALEA 46.2.7]

- A. A Patrol Commander shall examine all scheduled special events and evaluate the need for appropriate traffic control and staffing needs at those events. Consideration should be given to the following:
 1. Day of week and time of day,
 2. Route and/or location,
 3. Duration of event,
 4. Anticipated attendance,
 5. Parking availability,
 6. Spectator control,
 7. Emergency vehicle access,
 8. Ingress and egress of vehicles and pedestrians,
 9. Public transportation,
 10. News media access,
 11. Alternate routes for through traffic,
 12. Portable traffic control devices and signs,
 13. Provisions for relief of personnel assigned to traffic control duties, and
 14. Logistical requirements.
- B. Department personnel assigned to traffic control duties shall provide continuous direction or control for no longer than two hours without a break.
- C. If traffic control is to be provided by a group or organization other than Berkeley Police Department, the Patrol Commander will advise the organization of the above criteria to assist them.
- D. It shall be the responsibility of a Patrol Commander to coordinate with the Public Works Department the appropriate utilization of traffic cones, barricades and sign/signals, and to ensure assignment of adequate personnel for traffic control as may be necessary at any special event to ensure the safe and orderly flow of traffic.

HAZMAT AWARENESS

Sworn personnel and personnel designated to handle evidence will receive hazardous materials training. [CALEA 46.3.2]

DRAFTED BY: Eye-Liza Conner	DATE: 11/13/17
BY ORDER OF: ART JACKSON MAJOR	DATE: 11/15/17
APPROVED BY: Public Safety Committee	DATE: 12/1/17
APPROVED BY: Berkeley City Council	DATE: 12/18/17