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DRAFT

Deputy City Attorney

2015 JUL 16 PM 4:01

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

Introduced by 100 black men of the Bay Area, Inc.

[DRAFT] RESOLUTION AFFIRMING THE RIGHT TO PHOTOGRAPH, VIDEO AND/OR AUDIO RECORD POLICE AND/OR PEACE OFFICERS

WHEREAS, despite California's well-established right of individuals to take photographs and make audio and video recordings of police activity and public safety officers while on duty, in California and around the country members of the public have nonetheless been arrested and detained for lawfully photographing and recording public safety officers; and

WHEREAS, the core protections of our Federal and State Constitution are violated when individuals are arrested and/or detained for legally pursuing constitutionally protected activity; and

WHEREAS, when Oscar Grant was fatally shot and killed by a BART Police officer, it was reported that the BART Police Department attempted to seize video and audio recording devices in violation of State law; and

WHEREAS, the BART and other similar incidents this confused the public as to their right to photograph, videotape and audio record police activity and public safety officers while on duty and/or peace officers; and

WHEREAS, such violations threaten our liberties and make our communities less safe; and

WHEREAS, affirming by recognizing the existing constitutional right to photograph and record police activity and public safety officers on duty, the police helps to safeguard our collective freedoms and takes an important step towards ensuring that individuals are not punished for the mere exercise of their constitutional rights; and

WHEREAS, on May 19, 2015 the Oakland City Council passed a Resolution in support of California Senate Bill 411 which clarifies in state law that recording or photographing public safety officers while on duty, does not in and of itself constitute obstruction of an officer; and

WHEREAS, by adopting this Resolution enacting an ordinance establishing the City of Oakland seeks to affirm and recognize bystanders' the rights to photograph, video and/or audio record police activity and public safety officers in the course of their duties and/or peace officer(s), the City of Oakland will recognize bystander's right to photograph, videotape or audio record police and/or peace officer(s); now therefore be it

RESOLVED: That the Council of the City of Oakland recognizes and affirms the right of individuals to photograph, audio record and/or videotape police activity and public safety officers while on duty/peace officers; be it

FURTHER RESOLVED: That the fact that a person takes a photograph or makes an audio or video recording of a police officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a public place he or she has the right to be, does not constitute, in and of itself, a violation of law. Nor does it in and of itself constitute reasonable suspicion to detain the person or probable cause to arrest the person.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY

NOES –

ABSENT –

ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California