

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

**NOTICE OF MEETING AND AGENDA
BART POLICE CITIZEN REVIEW BOARD
POLICY STANDING COMMITTEE**

April 12, 2021
3:00 p.m.

COMMITTEE MEMBERS: Members Longmire, Perezvelez, Rizk, and W. White

A regular meeting of the Policy Standing Committee will be held on Monday, April 12, 2021, at 3:00 p.m.

Please note, pursuant to Governor Newsom’s Executive Order N-29-20 and the California Shelter-in-Place mandate, which prevents all but essential travel, public participation for this meeting will be via teleconference only.

Presentation materials will be available 72 hours prior to the Policy Standing Committee meeting at <https://www.bart.gov/about/bod/advisory/crb> (click on “Agenda”).

You may listen to the Meeting by calling 1-833-827-2778 and entering access code 354 040 696#.

We strongly encourage public comments to be submitted via email. **You may submit comments via email to CitizenReviewBoard@bart.gov using “public comment” as the subject line.** Your comment will be read into the record and will become a permanent part of the file. Please submit your comments as far in advance as possible. Emailed comments must be received before 1:00 p.m. in order to be included in the record.

Individuals may also be given an opportunity by the moderator to speak on any item on the agenda by calling (833) 827-2778 and entering access code 354 040 696# in advance of the item. Public comment will be limited to three (3) minutes per person. Your phone will be muted until you are called upon.

AGENDA

1. Call to Order.
 - a. Roll Call.
2. Public Comment. (Limited to 3 minutes per speaker.)
(An opportunity for members of the public to address the Public Outreach Standing Committee on matters under their jurisdiction and not on the agenda.)
3. Lexipol Manual Updates – Memo 2020. For Discussion and Action.
 1. [Lexipol Policy 100 - Law Enforcement Code of Ethics](#)
 - a. [Code of Ethics in the Preface section](#)
 2. [Lexipol Policy 300 - Use of Force](#)
 3. [Lexipol Policy 312 - Firearms](#)

4. [Lexipol Policy 402 - Bias-Based Policing](#)
5. [Lexipol Policy 462 - Wrap Restraint](#)
6. [Lexipol Policy 610 - Eyewitness Identification](#)
7. [Lexipol Policy 1000 - Recruitment and Selection](#)
8. [Lexipol Policy 1019 - Early Warning System](#)
9. [Lexipol Policy 1046 - Uniform Regulations](#)

4. Adjournment.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Policy Standing Committee Meeting Agenda materials are available to the public by downloading 72 hours prior to the meeting at <https://www.bart.gov/about/bod/advisory/crb> (click on "Agenda").

Pursuant to Govt. Code §54953.5, the audio recording of the open session portions of this public meeting shall be subject to inspection pursuant to the California Public Records Act (CPRA). Requests for information under the CPRA should be filed with the BART Office of the District Secretary.

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LAW ENFORCEMENT CODE OF ETHICS

To insure that all peace officers are fully aware of their individual responsibilities to maintain their own integrity and that of their agency, every peace officer, during basic training, or at the time of appointment, shall be administered the Law Enforcement Code of Ethics, as prescribed in Bureau 1013 of the California POST Regulations. Members of the Department are required to abide by the below Code of Ethics and Canons of the BART Police Department.

Code of Ethics:

As a Law Enforcement Officer (or Civilian Member, as appropriate), my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God* to my chosen profession...law enforcement.

* Reference to religious affirmation may be omitted where objected to by the officer.

Canons of the BART Police Department:

- Officers should uphold the Constitutions of the United States and the State of California, and all laws enacted or established pursuant to legally constituted authority.
- Officers should be aware of and should use proper and ethical procedure in discharging their official duties and responsibilities.
- Officers should regard the discharge of their duties as a public trust and should recognize their responsibilities to the people whom they are sworn to protect.
- Officers should strive to conduct their public and private life so that they exemplify the high standards of integrity, trust, and morality demanded of a member of the peace officer profession.

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- Officers should recognize that our society holds the freedom of the individual as a paramount precept which should not be infringed upon without just, legal and necessary cause.
- Officers should assist in maintaining the integrity and competence of the peace officer profession.
- Officers should cooperate with other officials and organizations who are using legal and ethical means to achieve the goals and objectives of the peace officer profession.
- Officers should not compromise their integrity, nor that of their agency or profession, by accepting, giving or soliciting any gratuity.
- Officers should observe the confidentiality of information given to them through any source, as it relates to the peace officer profession.

Law Enforcement Code of Ethics

100.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all peace officers are aware of their individual responsibilities to maintain their integrity and that of their department at all times.

100.2 POLICY

The Law Enforcement Code of Ethics shall be administered to all peace officer trainees during the Basic Academy course and to all other persons at the time of appointment (11 CCR 1013).

100.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before god to my chosen profession... law enforcement.

100.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the officer.

Summary
3/2/2021 10:26:54

Differences exist between documents.

New Document:	Old Document:
Lexipol 300 New	Lexipol 300 Old
17 pages (313 KB)	16 pages (311 KB)
3/2/2021 10:26:52	3/2/2021 10:26:52

Used to display results.


[Get started: first change is on page 1.](#)


No pages were deleted

How to read this report

Highlight indicates a change.

Deleted indicates deleted content.

 indicates pages were changed.

 indicates pages were moved.

Use of Force

300.1 PURPOSE AND SCOPE

The BART Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department policy builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, non-biased, and reasonable manner.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Explicit Bias - Conscious belief or attitude toward a specific social group that may lead an individual to act in discriminatory ways.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person (Government Code § 7286(a)).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

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Implicit Bias - Unconscious belief or attitude toward a specific social group that may lead an individual to unknowingly act in discriminatory ways. People are generally unaware of their implicit biases and may even hold contradictory conscious beliefs.

Legitimate law enforcement objective - Effect a lawful arrest, detention, or search; overcome resistance or prevent escape; prevent the commission of a public offense; in defense of others or in self-defense; gain compliance with a lawful order; to prevent a person from injuring himself/herself.

Minimal amount of force necessary - The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.

Non-deadly Force - Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious bodily injury shall be considered non-deadly force.

Personal Body Weapons - An officer's use of his/her body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.

Proportionality - Considers whether a particular use of force is proportionate and appropriate to the totality of the circumstances, and requires officers to consider whether alternative lesser or non-force options are feasible and likely to be effective. Proportional force does not imply equal force; officers may use superior force, consistent with this policy.

Reasonable Belief - An objective belief determined by the facts and circumstances reasonably available to the officer at the time (on-scene and without hindsight) and viewed from the perspective of a reasonable peace officer in the same situation, guided by the principles set forth in this policy.

Reasonable Force - An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

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Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force. Retreating for a tactical advantage should be considered and utilized, when feasible and appropriate.

Officers shall not use force with **bias**, based upon: race; ethnicity or nationality; religion; sex, sexual orientation; economic status; age; cultural group; disability; or affiliation with any other similar identifiable group.

Use of force against vulnerable populations (such as, without limitation, children, elderly, pregnant women, people with physical and mental disabilities, and people with limited English proficiency) can undermine public trust and should only be used if no other options appear reasonable or effective. It is recognized that the above may not be readily apparent or known to the officer. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

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The Department recognizes that transparency and accountability in the use of force is essential to preserving the trust of the community and to maintaining professional standards. This policy therefore requires rigorous reporting and review of all instances of the use of force.

300.2.1 DUTY TO INTERCEDE

A use of excessive force by law enforcement personnel is a matter of serious concern to the community, and even a single instance of excessive force may critically undermine public trust in the Department. Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.2 DE-ESCALATION TECHNIQUES

Officers shall use de-escalation techniques whenever feasible and appropriate: to potentially reduce or eliminate the need to use force; and to prevent injuries to the subject, the public and the officer(s). Use of de-escalation techniques must allow for the fact that officers are often forced to make split-second decisions, with limited information, and in circumstances that are tense, uncertain and rapidly evolving.

- (a) Officers shall, when feasible, continually assess the dynamics of a situation, and modulate their response and actions appropriately. Officers may be justified in using force at one moment, but not justified in using force the next moment due to a change in dynamics.
- (b) De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as: slowing down the pace of an incident; “waiting out” subjects; creating distance (and thus the reactionary gap) between the officer and the threat; and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.
 1. Officers should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance to de-escalate a situation.
 2. Officers should consider a variety of options, including lesser force or no force options.
 3. Officers should perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others.
 4. Officers shall not intentionally and unnecessarily escalate and/or create a need to use force.
 5. Officers should attempt to understand and consider possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical,

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or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.

6. Officers should continue de-escalation techniques, when feasible and appropriate, and take as much time as reasonably necessary to resolve the incident, in effort to avoid and/or minimize the use force.
 - (c) When an officer recognizes that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues are causing an individual to behave erratically, the officer shall, when feasible and appropriate, try to de-escalate the situation using de-escalation and/or Crisis Intervention techniques.

Establishing Communication - Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.

Supervisors conducting a use of force investigation will indicate de-escalation as a force option in BlueTeam whenever de-escalation was attempted or used in an incident.

300.2.3 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.4 DUTY TO REPORT EXCESSIVE FORCE

Any employee who observes a law enforcement officer or another employee use force that potentially exceeds what the employee reasonably believes to be necessary shall promptly report these observations to a supervisor as soon as feasible.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

There are circumstances in which a force option may be legally justified under the principles set forth in *Graham v. Connor*, but the use of that force option may not be appropriate, warranted, and/or necessary.

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This policy builds upon the broad principles in *Graham v. Connor* by adding additional, more restrictive factors upon which an officer's use of force shall be evaluated. These factors should be considered when determining whether to apply force (as time and circumstances permit), and in evaluating whether an officer has used reasonable force.

Additional factors set forth by case law and by this Policy:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The feasibility, efficacy, and safety of alternative lesser or non-force options, including the availability of de-escalation techniques that might reduce or eliminate the need to use force, or prevent injuries to the subject, the public and the officer(s).
- (c) Whether the force option is proportionate and appropriate to the totality of the circumstances, and whether alternative lesser or non-force options are feasible and likely to be effective. Proportional force does not imply equal force; officers may use superior force, consistent with this policy.
- (d) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (e) The conduct of the officer prior to the use of force. Specifically, did the officer violate policy and unnecessarily escalate the situation to a use of force.
- (f) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (g) The effects of drugs or alcohol.
- (h) Subject's mental state or capacity, including any apparent/known mental health issues.
- (i) Proximity of weapons or dangerous improvised devices.
- (j) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (k) The availability of other options and their possible effectiveness.
- (l) Seriousness of the suspected offense or reason for contact with the individual.
- (m) Training and experience of the officer.
- (n) Potential for injury to officers, suspects and others.
- (o) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (p) The risk and reasonably foreseeable consequences of escape.
- (q) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (r) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (s) Prior contacts with the subject or awareness of any propensity for violence.

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- (t) Any other exigent circumstances.
- (u) Officers must strive to use the minimal amount of force necessary.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.2 PERSONAL BODY WEAPONS

Personal body weapon strikes, punches, lifts or kicks for which the officer has received department-approved training, may be used when the officer reasonably believes that the use of such force appears necessary to further a legitimate law enforcement purpose.

Personal body weapon strikes, punches, or kicks to the rear of the head, neck or spine are prohibited. The only exception to this prohibition would be under exigent circumstances when deadly force is justified and reasonable.

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent

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a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Department for this specific purpose.

300.3.4 RESTRICTIONS ON THE USE OF A CHOKE HOLD/CAROTID RESTRAINT

Officers of this department are not authorized to use a choke hold or carotid restraint. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe. Carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person. (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a(5)(c)(1)(B)).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the

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present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. It is also noted that in many circumstances, disabling the driver of a vehicle may increase the potential for harm to bystanders and/or the officer.

- Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.
- Officers shall not intentionally and unnecessarily move into the path of an approaching vehicle to create their own exigent circumstance.
- Officers should not shoot at any part of a moving vehicle in an attempt to disable the vehicle.
- Officers shall not discharge a firearm at a moving vehicle or its occupants when there are other reasonable means available to avert the threat.
- Officers shall not discharge a firearm from a moving vehicle when there are other reasonable means available to avert the present threat.
- Officers may only shoot at a moving vehicle under exigent circumstances, when the driver and/or occupants are targeting others with the intent to cause great bodily injury or death and there are no other reasonable means available to avert the threat.

300.4.2 DISPLAYING OF FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

Whenever an officer draws/deloys a firearm during the performance of his/her duties to defend, detain or take any person into custody (the suspect is contacted or arrested, the officer is present and is within potential sight of the suspect), it is considered a use of force and an account of the incident must be made in a police report. The officer should include in the narrative of the report how the weapon was used in the incident, as well as the justification for such action. The documentation of how the weapon was used should include information on how the weapon was presented. The

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officer must notify a supervisor as soon as practical, and the supervisor will complete a Use of Force Investigation with accompanying documentation as outlined in this policy.

Whenever an officer draws/deploys a firearm during the performance of his/her duties in the presence of others, but does not use the firearm to defend, detain or take any person into custody (the suspect is not contacted or arrested), it is not considered a use of force and an account of the incident must be made in a police report.

Whenever an officer draws/deploys a firearm during the performance of his/her duties not in the presence of others, it is not considered a use of force and no documentation is required. An example of that type of incident would include, but is not limited to, the search of an empty building or car where no person is contacted during the search.

To the extent reasonable under the circumstances, officers shall consider their surroundings and potential risks to bystanders before discharging a firearm

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

Supplemental reports will be completed by personnel who are present when force is used by another officer. Officers have a duty to report all pertinent facts known to them.

All police reports, inclusive of any supplemental reports, involving the documentation of a use of force must be reviewed and approved by a supervisor prior to the employee going off duty.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following any Level 2, 3, or 4 application of force. Levels of force and the respective reporting, investigation, documentation, and review requirements are defined in section 300.5.2.

All use of force must be documented in a police report and reviewed by a supervisor.

300.5.2 USE OF FORCE INVESTIGATION, DOCUMENTATION, AND REVIEW

Upon receiving notification of a use of force, a supervisor who was not involved in the use of force incident, will determine the level of investigation and documentation.

The following categories and parameters will explain levels of force and the respective reporting, investigation, documentation, and review requirements. Incidents will be categorized as Level 1, Level 2, Level 3, or Level 4.

Level 1: Documentation in a Police Report Only

Level 1 Incident Parameters:

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- (a) Subject allowed him/herself to be searched, escorted, and/or handcuffed. The officer did not use force to overcome resistance, nor did the officer use force in the absence of resistance.
- (b) Officer used any of the following, and the circumstances of the application would lead a reasonable officer to conclude that the subject did not experience more than momentary discomfort:
 - 1. Control holds/pressure point application
 - 2. Leverage
 - 3. Grab
 - 4. Bodyweight
 - 5. The officer lowered the subject to a seated position or to the ground while partially or completely supporting the person's bodyweight.
- (c) Officer used any of following:
 - 1. TASER/LLIMs Deployed (no activation) ⚠
 - 2. ⚠ Drawn/deployed firearm, but no suspect contacted or arrested
- (d) Subject has no visible injury due to interaction with officer.
- (e) Subject has no complaint of injury or continuing pain.
- (f) Subject does not indicate intent to pursue litigation.
- (g) Subject was not rendered unconscious due to interaction with officer.
- (h) No allegation of misconduct against officer, regarding force.
- (i) Officer body camera was activated in a timely manner, prior to the enforcement contact, per policy.

Level 1 Incidents should be documented by an officer in an appropriate police report, citation, Field Interview, and/or CADS entry. Supervisors will review police report narratives for approval.

Level 2: Use of Force

Level 2 Incident Parameters:

- (a) No suspect injury or complaint of continuing pain due to interaction with officer.
- (b) No allegation of misconduct against officer, regarding force.
- (c) Officer body camera was activated in a timely manner, prior to the enforcement contact, per policy.
- (d) Officer's use of force was limited to the following:
 - 1. Any takedown, that did not appear to cause more than momentary discomfort.
 - 2. Firearm drawn/deployed but not fired, suspect contacted ⚠

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3. Control hold, pressure point, leverage, grab, and/or bodyweight, and the application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses, and that photos are taken of the involved parties. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist with a brief summary.

Witness statements from fire and medical personnel are not required under the following circumstance: an officer assists medical personnel to restrain and/or secure a subject to a gurney for medical transport in a non-criminal detention (i.e. 5150 or 5170 detention), and all of the following conditions are met:

- (a) The officer only used force options limited to the following: grab, hold, leverage, and/or bodyweight.
- (b) No subject injury or complaint of continuing pain due to interaction with officer.
- (c) No allegation of misconduct against officer, regarding force.
- (d) Officer body camera was activated in a timely manner, per policy.
- (e) The unit number for the fire and medical personnel is obtained.

Level 3: Use of Force

Level 3 Incident Parameters:

- (a) Would have otherwise been classified as a Level 2, except one or more of the following apply:
 1. Suspect injury or complaint of injury or continuing pain due to interaction with officer.
 2. Allegation of misconduct against officer, regarding force.
 3. Officer body camera was not activated in a timely manner, prior to the enforcement contact, per policy.
- (b) The use of force is Level 3 if the officer used any of the following force options:
 1. Any takedown, that appears to have caused more than momentary discomfort.
 2. TASER Activation/LLIMS Activation
 3. Chemical Agents/Munitions
 4. Impact Weapon Strikes
 5. Personal Body Weapons
 6. Police canine deployment resulting in injury

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An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist. The supervisor will also complete a Use of Force Investigation Report narrative for review through the Use of Force Review process. Suspect and witness statements from the crime report will be attached to the use of force investigation. Use of Force involving police canines will be documented and reviewed additionally per Policy 318.

Level 4: Use of Deadly Force

Level 4 Incident Parameters:

- (a) Use of firearm, officer involved shooting
- (b) Or any force likely to cause death or serious bodily injury

An uninvolved supervisor will respond to the scene. The incident will be investigated, documented, and reviewed in adherence to Policy 310.

300.5.3 EMPLOYEES WHO USE FORCE WHILE ON A SPECIAL ASSIGNMENT

When a BART Police employee has a use of force as defined in this policy, the use of force must be reported to a BART Police supervisor and investigated in accordance with this policy.

When two or more BART Police officers are temporarily assigned to assist an outside agency or multi-agency task force in the performance of law enforcement activities, a BART police supervisor should also be present.

300.5.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Division Policy.

300.6 MEDICAL CONSIDERATION FOLLOWING A USE OF FORCE

Prior to booking or release, and as soon as possible under the circumstances, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Officers should pay particular attention to vulnerable populations, including but not limited to, children, elderly persons, pregnant individuals and individuals with physical, mental and developmental disabilities, whose vulnerabilities could exacerbate the impact or risk of injury.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another

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officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage nearby if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

An uninvolved supervisor should respond to the scene of a Level 2, Level 3, or Level 4 use of force. The supervisor is expected to do the following:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Ensure that arrestees and witnesses are interviewed, and that the interviews are audio/video recorded. If the arrestee invokes their Miranda rights at any point, all interrogation shall cease as outlined per case law.
 1. Officers should take recorded suspect and witness statements related to all criminal charges as appropriate, including the circumstances involving the use of force. These statements will be documented in the crime report. If the responding supervisor conducts the interview, then the supervisor should document the statement in the crime report.
 2. In addition to the statement taken for the criminal report, supervisors conducting the use of force investigation should seek a voluntary statement regarding the use of force from suspects who have not invoked their Miranda rights. The interview should be audio/video recorded. If the statement contains information that is relevant to the criminal case but is not covered in the primary crime report, the supervisor will document the interview in a supplemental crime report.
 3. In the event that force is used on an individual with no criminal charges (i.e. psychiatric detentions), then the responding supervisor should interview the detainee regarding the use of force.

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4. In all cases, the responding supervisor should identify themselves as a supervisor to the arrestee/detainee. If the subject makes an allegation of misconduct, the supervisor will receive and forward the complaint to Internal Affairs.
 - (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
 - (e) Review the portion(s) of the body worn camera video pertaining to the use of force and/or allegation of misconduct.
 - (f) Review and approve all related reports.

In the event that an uninvolved supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit. The investigation will be documented in a Use of Force Investigation checklist and narrative as warranted.

When practical, involved supervisors, meaning those who use force in a given incident or those who witness the use of force by another officer in a given incident, should not obtain statements from other officers as part of a report on the use of force, as such is the responsibility of an uninvolved supervisor. Furthermore, involved supervisors and officers shall not attempt to influence other officers' or civilian witnesses' accounts of what occurred during the incident or otherwise compromise the integrity of the use of force investigation.

Use of Force Investigation Reports will be forwarded and reviewed through the chain of command.

300.7.1 WATCH COMMANDER RESPONSIBILITY

A watch commander will review the Use of Force Investigation Report to ensure compliance with this policy and that any training issues are addressed.

Nothing in the policy precludes the watch commander from requiring that a supervisor complete a Use of Force Investigation Report for any incident involving force.

The on-duty watch commander shall promptly notify the Office of the Independent Police Auditor in the event that a use of force resulted in significant (i.e. life threatening) injury, notwithstanding the notification requirements regarding officer-involved shootings and in-custody deaths pursuant to Policy 310.

300.8 TRAINING

Officers will receive annual training on this policy (at a minimum) and demonstrate their knowledge and understanding.

Departmental personnel authorized to carry lethal and less-lethal weapons will be issued copies of, and be instructed in, the policies of lethal and less-lethal force before being authorized to carry a weapon. The issuance and instruction shall be documented.

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Training standards and requirements relating to demonstrated knowledge and understanding of the use of force policy, and training about interactions with vulnerable populations (including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities) are established in the Department's Training Plan. Relevant course titles from the Training Plan include, but are not limited to; POST Basic Academy material, POST-Approved Field Training Program, POST Continued Professional Training, POST-Certified Force Options Update, POST-Certified Driving Update, POST-Certified Force Options Update, POST Certified Driving Update, POST Certified Arrest & Control, POST-Certified Tactical Communications, First Aid/CPR Update, Firearm Qualification, Patrol Rifle, Racial Profiling or Fair & Impartial Update, Impact Weapons Update, TASER Training, Code of Ethics Training, Crisis Intervention Training, Reality Based Training, Active Shooter Training, Cultural Diversity Training, POST Field Training Officer Course, Field Training Officer Update Course, Firearms Instructor Course, Firearms Instructor Update, Arrest & Control/Impact Weapons Instructor, Arrest & Control/Impact Instructor Update, Impact Weapons Instructor Update, In-House New Sergeant Orientation, Officer Involved Shooting – Supervisor Responsibilities, POST Basic Instructor Development Institute, Fair and Impartial Policing Train the Trainer, Racial Profiling Instructor Course, Tactical Medical Course, POST First Aid / CPR Instructors Course, Force Options Simulator Instructor Course, Basic TASER Instructor Course, TASER Instructor Recertification Course.

300.9 USE OF FORCE ANALYSIS

At least annually, the Operations Bureau Deputy Chief should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police, the Office of the Independent Police Auditor, and the BART Police Citizen Review Board. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

300.10 USE OF FORCE COMPLAINTS

Complaints by members of the public related to this policy may be filled with the BART Police Department Internal Affairs Division (IAD), the BART Police Citizen Review Board (BPCRB) or the Office of the Independent Auditor (OIPA). The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)). Complaints filed with the BPCRB and/or OIPA will be investigated with the applicable procedures of the BART Citizen Oversight Model.

300.11 POLICY REVIEW

The Chief of Police or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

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300.12 POLICY AVAILABILITY

The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

300.13 PUBLIC RECORDS REQUESTS

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).

Summary
2/24/2021 09:36:59



Differences exist between documents.

New Document: Lexipol 312-New 14 pages (306 KB) 2/24/2021 09:36:57 Used to display results.	Old Document: Lexipol 312-Old 14 pages (305 KB) 2/24/2021 09:36:57
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[Get started: first change is on page 1.](#)

No pages were deleted

How to read this report

- Highlight** indicates a change.
- Deleted** indicates deleted content.
-  indicates pages were changed.
-  indicates pages were moved.

Firearms

312.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

312.1.1 PERSONNEL AUTHORIZED TO POSSESS FIREARMS WHILE ON-DUTY

- (a) All sworn personnel who have successfully completed a department authorized course of firearms instruction and qualified with the firearm at a department firearms qualification.
- (b) Other police department employees performing the duties of Revenue Protection Guard and after successful completion of the PC 832 course of firearms instruction and qualified with the firearm at a department firearms qualification.

312.2 POLICY

The Bay Area Rapid Transit Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

312.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including but not limited to edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

312.3.1 DUTY HANDGUNS

The authorized departmental issued handgun is the Sig Sauer P320 chambered in 9mm parabellum. The department will issue weapons only to personnel who will carry the Sig Sauer P320 as their primary duty weapon while in uniform and/or plainclothes assignments. Members of the Range Staff may be issued Sig Sauer P320 pistols for training purposes.

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Personnel may select and have issued an appropriate sized Sig Sauer grip module to obtain a satisfactory firing grip on the P320 pistol (subject to availability).

(a) Duty Handgun Modifications:

Department issued P320 firearms shall not be altered in any way to change its general appearance or function without written Rangemaster approval. A copy of the written approval will be kept in the employees' personnel file. This includes modifications of the grip module, change or modification of the Fire control unit (i.e. Sig Sauer flat/straight triggers), change or addition of sights (including laser sights), slide or any mechanism. All modifications will be at the expense of the desiring officer. Any department firearm returned to the department must be returned in its original configuration.

Modifications that will not be approved include:

1. A polymer frame with any finish other than black.
2. A barrel length that has been altered from the original manufacturer's specifications.
3. The surface engraved, etched, or inlaid with other than a personal alpha/numeric identifier unless approved by the Rangemaster.

Only department armorers may remove the firing control unit from the grip module and change sights. Any substitution of the grip module must be performed by a Department Armorer.

Any substitution of the grip module or other change to the P320 will require personnel to conduct a test fire of the firearm at a department approved range.

b. Authorized Optional Duty Handguns:

1. Personnel who requested and were authorized (2018 and prior) to carry an optional duty handgun may continue to carry their previously authorized duty weapon, however any personnel hired after 2017 will only be authorized to carry a department issued Sig Sauer P320 as a duty weapon. Personnel choosing not to carry the department issued pistol may carry any 9mm, .40 S&W, or .45 ACP caliber pistol approved by the Support Services Deputy Chief. Authorized manufacturers include: Beretta, Glock, Heckler & Koch, Sig Sauer, Smith & Wesson, Colt, Kimber, Springfield Armory, Para Ordinance, STI, Walther, and others as approved by the Rangemaster. A copy of the authorization will be kept in the employees personnel file.

2. The pistol may be a single-action or double-action/safe-action type, semi-automatic, capable of carrying at least seven (7) rounds in its magazine. Personnel may carry a single-action type pistol after successfully completing a departmental single-action pistol training course or equivalent training and successfully completing a duty qualification course.

- i. Authorized finishes include blue, black, parkerized, nickel or stainless steel.
- ii. Personnel primarily assigned to administrative assignments may (subject to availability) be issued an additional Sig p320 pistol but in a compact size. Compact pistol

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configurations shall be returned to the department when member concludes service in the administrative assignment.

All expenses incurred with regards to the optional firearm will be borne by the member choosing to carry the weapon, except for duty ammunition and a reasonable amount of practice ammunition annually.

Any firearm used during an officer-involved shooting, may be retained as evidence for at least one year without compensation to the employee.

312.3.2 SECONDARY (BACK-UP) HANDGUNS ARE NOT AUTHORIZED BY THIS DEPARTMENT

312.3.3 SHOTGUNS

The department-issued shotgun is a Remington Model 870 pump action 12-gauge shotgun. Shotguns, when carried in police vehicles or District armored vehicles, must be secured in locking gun racks. The shotgun shall be carried in the "cruiser-ready" configuration (magazine tube loaded to capacity with 12-gauge, double-ought (00) buckshot, hammer forward on an empty chamber, and safety on). Additional rounds of double-ought buckshot shall be carried in the side saddle ammunition carrier attached to the weapon. Personnel shall carry only department authorized ammunition. Authorized ammunition is Federal Premium 00 Buck. Use of the police shotgun in enforcement situations shall be guided by officer/revenue guard discretion when warranted by the seriousness and hazards of the situation confronting the officer/revenue protection guard.

Shotguns will be removed from vehicles whenever the vehicle will not be driven on the on-coming shift.

312.3.4 PATROL RIFLES

The authorized department-issued patrol rifles are the Colt 6920 .223 and Sig Sauer M400 chambered in .223 and/or 5.56 mm.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.

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- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

312.3.5 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Bay Area Rapid Transit Police Department identification cards under circumstances requiring possession of such identification.

312.3.6 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

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The department authorized handgun ammunition is 9mm Federal Premium HST 147 grain, .40 caliber Federal Premium HST 180 grain and .45 caliber Federal Premium HST 230 grain.

The only authorized ammunition for the 12 gauge shotgun is Federal Premium 00 Buck.

The only authorized ammunition for the AR15 platform is Federal Premium Hi-Shok SP 64 grain and Federal Premium Bonded SP 62 grain.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

312.3.7 SPECIAL WEAPONS AND TACTICS (SWAT) WEAPONS AND EQUIPMENT

Members assigned to SWAT may modify and utilize firearms, ammunitions, and accessories other than those listed in the previous sections of this policy manual with Team Commander and Department Rangemaster approval. Said weapons, modifications, and accessories may be utilized on patrol as well as in a SWAT capacity.

- SWAT members are allowed to utilize firearms chambered in .308.
 - Said members must successfully complete a semi-annual Department approved SWAT Sniper Qualification Course.
 - The department approved and issued .308 caliber ammunitions are the Ruag Swiss P Styx 167 grain, Tactical 164 grain, and Amour Piercing (AP) 196 grain.
- SWAT members are allowed to utilize weapons of various colors as long as it serves a tactical purpose as approved by the Department Rangemaster.
- Members who have been assigned to SWAT are authorized to utilize variable power optics, night vision devices (including visible and infrared lasers), thermal imaging devices, and suppressors other than the Sig Sauer SRD556.

312.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

312.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Rangemaster.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Rangemaster.

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312.4.2 HOLSTERS

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

312.4.3 TACTICAL WEAPON MOUNTED LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Rangemaster. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Personnel may utilize weapon-mounted lights on their duty and off-duty firearms. Weapon-mounted lights are intended to be used for searching, threat assessment, and target acquisition of potentially dangerous persons. Weapon-mounted lights shall not be used as ordinary flashlights for routine lighting purposes.

Authorized brands include Blackhawk, Surefire, Streamlight, and any others approved by the Rangemaster.

Weapon-mounted lights are subject to the following requirements:

- (a) Personnel must demonstrate proficiency with the weapon-mounted light prior to carrying it in an on-duty capacity.
- (b) The weapon shall be carried with the light affixed to it. This will require a holster designed to accommodate the weapon and light combination.
- (c) Personnel equipped with a weapon-mounted light shall also have a handheld light readily available to them at all times while on-duty.

312.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members shall not place or store any firearm, ammunition, or other weapon on department premises, or at any other location, except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when

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securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.

- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

312.5.1 FIREARMS RANGE

The Department utilizes firearms ranges located throughout the Bay Area open to law enforcement use. Range training is held in order to improve and enhance public and officer safety. The annual training shall include marksmanship, weapon manipulation, qualifications, low light operation, mindset, officer safety, use of force, less lethal application, communication, stress inoculation, weapon transitions, active shooter, tactical first aid other tactical topics.

Weapons used during departmental range training may consist of departmental issued and/or authorized platforms: pistol, rifle, shotgun, LLIMS, and TASER. Targets used at department ranges will be approved by the Rangemaster

Range restrictions depend on the various rules of ranges used and will be determined by the range owner. All officers attending department training shall abide by the four basic firearms safety rules:

- (a) Consider all guns to be loaded unless positively confirmed otherwise.
- (b) Never let the muzzle cover anything you are not prepared to shoot.
- (c) Keep finger off trigger until sights are on the target and you have made a conscious decision to shoot.
- (d) Be sure of your target (positive I.D.) and what is beyond it.

Firearms Safety rules shall be reviewed at all department firearms training by range staff. Staff shall also identify the locations of the trauma and first aid kit with all attendees.

Most types of new factory ammunition for the above weapon platforms are approved for range use. The only exceptions are tracer rounds and armor piercing rounds (unless on SWAT). Caution should also be used when using metal targets. Instructors should ensure proper safety measures have been addressed (i.e. distance, safety glasses for students, target/shooter angle). Minimum range safety equipment shall include eye protection, ear protection, trauma kit, first aid kit, and cell phone for communication with 911.

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312.5.2 RANGE STAFF DUTIES

Members of the Range Staff will be assigned to assist the Rangemaster and/or Range Sergeants in conducting the established training program and will report directly to the Rangemaster or Range Sergeant. The range officers, under the direction of the Rangemaster or Range Sergeant, shall have authority to enforce rules and policies established by the Chief of Police.

At the range, the senior firearms instructor shall serve as the range supervisor if no range sergeant is present. It will be the responsibility of the range sergeant/supervisors to ensure range safety protocols are being followed.

All firearms instructors are required to attend basic firearms instructor school. Firearms instructor update training and Tactical Medicine Training is recommended every 5 years. Firearm Instructors may also serve as Department armorers. Armorers are required to re-certify every three years to maintain their armorer status.

312.5.3 INSPECTION AND STORAGE

All Department firearms will be inspected annually by the Rangemaster a qualified armorer, weapons instructor or designee.

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Firearms may be safely stored in lockers at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored.

If a firearm fails any field function test, it will be deemed unsafe and taken out of service. As soon as possible, notification should be made to the Rangemaster. A replacement firearm will be issued and a qualification (if applicable) be conducted as soon as possible. The unsafe firearm(s) will be stored unloaded in a police department safe as to not be re-issued until an inspection by the Rangemaster or designee. The firearm shall not be returned to service until inspected by the Rangemaster or designee.

312.5.4 INVENTORY

An accurate inventory of all department firearms shall be maintained by the Department Rangemaster and quartermaster. The data collection mechanisms include TMS (Training Management System), Armorerlink and Excel.

312.5.5 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so.

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Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

312.5.6 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

312.5.7 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

312.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training semi-annually with their duty firearms. In addition to semi-annually training, all members will qualify at least annually with their duty firearms. Members will qualify with off-duty firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

312.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 1. Unauthorized range make-up

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2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

312.6.2 FAILURE TO QUALIFY WITH DUTY HANDGUN

Personnel who are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first) shall be reassigned to a non-armed administrative position and prohibited from carrying a firearm off-duty. The Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the on-duty Watch Commander of the failure to qualify. Progressive discipline may be implemented at the level of a Letter of Discussion. The Rangemaster or designee shall arrange for a 4-hour remedial firearms training session as soon as practicable for the non-qualifying personnel

Personnel who are unable to qualify by the conclusion of the first remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty and shall be scheduled to attend a second 4-hour remedial firearms training session. Personnel will progress to the next level in progressive discipline, not less than an oral counseling.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and a third 4-hour remedial firearms training session will be scheduled. Personnel will progress to the next level in the discipline system, not less than a written reprimand.

Personnel that are unable to qualify by the conclusion of the third remedial firearms training session, shall remain assigned to a non-armed administrative position and restricted from carrying a firearm off-duty. Another opportunity to qualify will be scheduled. Personnel will progress to the next level in progressive discipline, not less than a pay-step reduction. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying.

Personnel who are unable to qualify by the conclusion of their fourth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and subject to the next step in progressive discipline, suspension without pay.

Personnel who are unable to qualify by the conclusion of their fifth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and are subject to the fourth level of progressive discipline, demotion, or the final level of discipline, termination.

312.6.3 FAILURE TO QUALIFY WITH OFF-DUTY HANDGUN

Sworn personnel that fail to annually qualify with their secondary and/or off-duty handguns shall be prohibited from carrying those firearms until they successfully complete the required departmental qualification course.

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312.6.4 PATROL RIFLE QUALIFICATION

(applies to Patrol Rifle Operators only, refer to policy 432)

- Day Light and Low Light: annually

312.6.5 FAILURE TO QUALIFY WITH SHOTGUN OR RIFLE

Personnel who fail to attain the minimum passing qualification score with the shotgun or rifle shall be allowed a minimum of one additional opportunity to qualify during that training day. Those personnel that are still unable to qualify may receive additional firearms training that day if training time and a sufficient number of Range Staff are available. In situations involving personnel that are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first), the Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the employee's immediate supervisor or the on-duty Watch Commander of the failure to qualify.

Non-qualifying personnel shall not be authorized to deploy the shotgun or rifle in the performance of their duties until they are able to demonstrate acceptable proficiency and achieve a passing qualification score. Progressive discipline will be implemented at the level of a Letter of Discussion.

The Rangemaster or designee shall arrange for a 4-hour remedial shotgun or rifle training session as soon as practical for the non-qualifying personnel. Personnel that are unable to qualify by the conclusion of the first remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a second 4-hour remedial shotgun or rifle training session will be scheduled. Progressive discipline will be administered in the same manner as described under the Failure to Qualify with Duty Handgun section.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a third 4-hour remedial shotgun or rifle training session will be scheduled. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying. Progressive discipline will move to the next step.

Personnel who are unable to qualify by the conclusion of the third remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties. The employee may, at the discretion of the Chief of Police, progress to the next level in progressive discipline.

312.7 REMEDIAL TRAINING

Any employee who handles a firearm in a grossly unsafe manner, demonstrates dangerous and/or extremely poor decision-making skills in the deployment of and/or application of any use of force-related task, in the field or in training, may be required to attend mandatory remedial training prior to returning to full-duty status.

If in the opinion of the supervisor/primary trainer at the site of the training, the employee's actions/decision-making is so unsafe that if they were returned to full duty, the employee may be a safety hazard to themselves, fellow employees, and/or the public; the supervisor/primary trainer shall recommend mandatory remedial training for the employee. The primary trainer shall contact the

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on-duty Watch Commander as soon as practicable and make the recommendation for mandatory remedial training.

If the request for mandatory remedial training is approved, the employee shall be removed from a firearm-carrying capacity and placed into a temporary administrative position until such time as that employee satisfactorily completes the mandatory remedial training.

Repeated failures to correct such deficiencies may result in implementation of progressive discipline.

Nothing in this policy precludes the department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision-making skills, without the employee first being removed from full-duty status.

312.8 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

312.8.1 DANGEROUS ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER® device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

312.8.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

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Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

312.8.3 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged. Warning shots are only allowed when lethal force is justifiable. **Generally, warning shots should be directed in a manner that minimizes the risk of injury to bystanders, ricochet dangers and property damage.**

312.9 RANGEMASTER DUTIES

The rangemaster falls under the Personnel and Training Division and reports to the Personnel and Training Division Lieutenant.

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Personnel and Training Lieutenant after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Rangemaster has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry. At a minimum, the Rangemaster shall conduct a semiannual inventory of all firearms under the Department's control.

The Rangemaster shall complete and submit to the Personnel and Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Personnel and Training Lieutenant.

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312.10 ALCOHOL & DRUGS

Firearms shall not be carried by any personnel who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the employee's senses or judgment.

312.11 RETIREES

The Office of the Chief shall issue honorably retired sworn personnel an identification card with a CCW endorsement, see Policy Manual § 220.

Summary
2/24/2021 09:38:47

Differences exist between documents.

New Document:

[Lexipol 402-New](#)

3 pages (275 KB)

2/24/2021 09:38:47

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Old Document:

[Lexipol 402-Old](#)

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Bias-Based Policing

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that employees of the Bay Area Rapid Transit Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

402.2 POLICY

The Bay Area Rapid Transit Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

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402.4 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

402.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

402.4.2 REPORTING TRAFFIC STOPS

Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

402.5 SUPERVISOR RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
- (b) Supervisors should periodically review MAV recordings, MDC data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
 - 1. Supervisors should document these periodic reviews.
 - 2. Recordings that capture a potential instance of racial- or bias-based profiling should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

402.6 ADMINISTRATION

Each year, the Operations Division Commander shall review the efforts of the Department to prevent racial- or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police.

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This report should not contain any identifying information regarding any specific complaint, citizen or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

402.7 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Personnel and Training **Bureau**.

- (a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of racial- or bias-based profiling.
- (b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this department who received initial racial- or bias-based profiling training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends (Penal Code § 13519.4(i)).

402.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs Division Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Division Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

Summary
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Wrap Restraint

462.1 PURPOSE AND SCOPE

It is the policy of the BART Police Department to use objectively reasonable force and authority when making an arrest, preventing the escape of an offender, or overcoming resistance. The BART Police Department has approved the use of the WRAP within the guidelines provided.

This policy is intended to familiarize Department personnel with the WRAP and procedural guidelines for its use. The WRAP provides a safe and quick method of controlling and immobilizing a violent or potentially violent/combative subject who has been detained or taken into custody.

462.2 DESCRIPTION

The WRAP Restraint manufactured by Safe Restraints, Inc., was designed as a temporary restraining device. Used properly it can increase officer safety and reduce the risk of liability due to injuries and in-custody deaths. The WRAP immobilizes the body and restricts a subject's ability to kick or do harm to oneself or others. The WRAP minimizes the time required to secure a person safely, restrains the subject in an upright position, and has the subject prepared for transportation or movement.

462.3 GUIDELINES FOR THE USE OF THE WRAP

Subjects should NOT be left unmonitored. The WRAP can be used prior to or after a violent/combative subject is controlled using approved departmental methods. As with any restraint device, do not assume the WRAP is escape proof.

The WRAP should be considered for use under the following situations:

- (a) When pre - assaultive, violent, or combative behavior is indicated
- (b) To immobilize a violent/combative subject
- (c) To limit violent/combative subjects from causing injury to themselves or others
- (d) To prevent violent/combative subjects from causing property damage by kicking
- (e) To restrain a subject after a chemical spray or stunning device is used
- (f) When conventional methods of restraint are not effective
- (g) In transportation of violent/combative subjects

Once the subject is properly restrained in the WRAP, the subject should be placed on his/her side, or in a sitting position. This will increase the oxygen recovery rate and will reduce the incident of respiratory fatigue.

462.3.1 APPLICATION OF THE WRAP

The WRAP can be applied by one person, but for violent/combative subjects, two to four people should be used. Only qualified personnel who have received training in the use of the WRAP should use this restraining device. However, under exigent circumstances, those who are qualified

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to use the Wrap may direct personnel who are not trained in its application on a violent/combatative subject.

462.3.2 SAFETY PRECAUTIONS

- (a) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe
- (b) The leg bands and shoulder harness must be checked frequently for tightness and re-tightened or loosened as necessary until the WRAP is removed
- (c) If the restrained subject complains of or shows signs of breathing distress (shortness of breath, sudden calmness, a change in facial color, etc.), medical attention should be provided immediately
- (d) The subject should NOT be left unmonitored
- (e) Subjects should be placed in an upright sitting position or on their side as soon as possible to allow for respiratory recovery
- (f) The WRAP is a temporary restraining device and is NOT escape proof

462.3.3 TRANSPORTATION

Movement of a restrained subject can be accomplished in two ways depending on their cooperation. The restrained subject can either be carried or allowed to stand and shuffle step to the destination. Officers shall observe the following procedures:

- (a) To carry the restrained subject, it is recommended between two to four personnel should be used depending on the size and weight of the subject. Lift the subject under the arms and ankles. A "log lift" carrying technique may be used when moving the subject. Proper lifting techniques should be used to prevent injury to officers.
- (b) As an alternative to lifting, the subject may be moved by means of a shuffle. If the subject is cooperative the lower WRAP leg band can be loosened to allow some leg movement below the knees without compromising security or safety. By loosening the tether to the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. If this method is used, appropriate support must be given to the subject to prevent possible injury by falling.

Prior to vehicle transportation, re-check all belts to ensure that they are securely fastened. The use of a seat belt is required to limit movement and reduce the risk of injury to the subject. If needed, consider having an officer ride with the subject to ensure all straps remain tight and the subject has no medical problems. Re-checking the security of the WRAP and keeping the subject under constant observation should apply to any movement of the subject.

462.3.4 DOCUMENTATION

Body worn cameras shall be activated in accordance with Departmental policy and during any incident in which the WRAP is being considered for use. Any time the restraint device is used, the circumstances requiring its use shall be documented in the related report(s). The officer should include the following in the report:

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- (a) The reason and/ or justification for use
- (b) The amount of time the suspect was restrained
- (c) How the suspect was transported and the position of the suspect
- (d) Observations of the suspect's physical and physiological actions
- (e) Information about the application and removal of the WRAP
- (f) Any known or suspected drug use or other medical problems
- (g) Documentation of **continuous** activation of **body worn cameras** prior to, during, and after the use of the WRAP

A supervisor shall be responsible for conducting a use of force investigation and shall ensure that the Watch Commander is advised of the incident.

462.4 STORAGE AND RE-USE OF WRAP

It is important that the WRAP is immediately ready for use and prepared for storage in a way that prevents the loop fastening material on the bands from becoming dirty or entangled. This allows the WRAP to be quickly laid out next to the subject and applied without the confusion of having to untangle the bands. The WRAP shall be kept in the provided storage bag as follows:

- (a) The WRAP shall be inspected for signs of wear or damage. If cleaning is necessary, a mild soapy solution may be used. Allow the WRAP to thoroughly air dry prior to storage
- (b) Lay the WRAP on a flat surface with the leg band side up and detach the shoulder harness. Extend each of the leg bands out flat
- (c) Individually fold each of the leg bands back onto itself so that the fold of the band protrudes an inch or two from the edge of the WRAP body
- (d) Be sure the retaining "D" ring on the body of the WRAP and harness is open and ready for use
- (e) Keeping the bands inside, roll the WRAP tightly towards the buckle and secure with the ankle strap and place in the storage bag
- (f) Fully extend the harness buckles and tether. Attach buckles to its counterpart and roll the harness up and place it in the storage bag compartment

462.5 TRAINING

The Department shall provide certified training in the use of the WRAP restraint. Only those personnel who have successfully completed the training shall apply this restraining device and, under exigent circumstances, may direct personnel who are not trained in its application on a violent/ combative subject.

Summary
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Eyewitness Identification

610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

610.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

610.2 POLICY

The Bay Area Rapid Transit Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

610.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Criminal Investigations Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

Eyewitness Identification

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

610.6.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

610.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

610.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

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Eyewitness Identification

- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

610.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

610.8.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Bay Area Rapid Transit Police Department and that are promulgated and maintained by the Human Resources Department.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Bay Area Rapid Transit Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

The selection process for all personnel shall be administered, evaluated, and interpreted in a uniform manner.

1000.3 STANDARDS

The Department is committed to having valid non-discriminatory policies which will allow it to lawfully exclude persons who do not meet the department or State of California hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

The following standards have been adopted for public safety applicants. Only the Chief of Police may make exceptions to any of the following disqualifying rules:

1000.3.1 OPERATION OF A MOTOR VEHICLE

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to control a motor vehicle at high speeds
- (d) The ability to operate a motor vehicle in all types of weather conditions
- (e) The following shall be disqualifying:
 1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a

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pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.

2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs. Being on active probationary status for driving under the influence of alcohol and/or drugs.

1000.3.2 INTEGRITY

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
- (c) Showing strong moral character and integrity in dealing with the public
- (d) Being honest in dealing with the public
- (e) The following shall be disqualifying:
 1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
 2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

1000.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following shall be disqualifying:
 1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
 2. Conviction for two or more misdemeanor offenses under California law as an adult
 3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)
 4. Admission(s) of having committed any act amounting to a felony (including felony- misdemeanor offenses) under California law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)

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5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

1000.3.4 DEPENDABILITY

- (a) Having a record of submitting reports on time and not malingering on calls, etc.
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignment
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following shall be disqualifying:
 1. Missing any scheduled appointment during the process without prior permission
 2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
 3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
 4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement
 5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability
 6. Resigning from any paid position without notice shall be disqualifying, except where the presence of a hostile work environment is alleged
 7. Having any outstanding warrant of arrest at time of application

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1000.3.5 LEARNING ABILITY

- (a) The ability to comprehend and retain information
- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following shall be disqualifying:
 - 1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
 - 2. Having been academically dismissed from any POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another POST basic law enforcement academy shall rescind this requirement

1000.3.6 PERSONAL SENSITIVITY

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following shall be disqualifying:
 - 1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
 - 2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
 - 3. Having been disciplined by any employer as an adult for fighting in the workplace

1000.3.7 JUDGMENT UNDER PRESSURE

- (a) The ability to apply common sense during pressure situations
- (b) The ability to make sound decisions on the spot
- (c) The ability to use good judgment in dealing with potentially explosive situations
- (d) The ability to make effective, logical decisions under pressure
- (e) The following shall be disqualifying:

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1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

1000.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants:
1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
 2. Any adult use or possession of marijuana within one year prior to application for employment
 3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
 4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
 5. Any adult manufacture or cultivation of a drug or illegal substance
 6. Failure to divulge to the Department any information about personal illegal use or possession of drugs
 7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
1. Any illegal use or possession of a drug as a juvenile
 2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
 3. Any illegal or unauthorized use of prescription medications

1000.4 RECRUITMENT

The Professional Standards and Training Bureau should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.

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- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Professional Standards and Training Bureau shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

1000.5 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

The use of results of a polygraph examination or other instrument for the detection of deception as a single determinant of employment status, is prohibited.

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1000.5.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.6 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Bay Area Rapid Transit Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.6.1 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Bay Area Rapid Transit Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.6.2 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.6.3 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.6.4 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private, or protected information, the Professional Standards and Training Bureau shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

1000.6.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

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1000.6.6 RECORDS RETENTION

The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

Selection materials related to a backgrounds investigation shall be stored in a secure area when not being used and are disposed in a manner that prevents disclosure from within.

1000.7 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.8 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources Department should maintain validated standards for all positions.

1000.8.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

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- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
- (c) At least 18 years of age
- (d) Fingerprinted for local, **state**, and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency **test**, or obtained a two-year, **four-year**, or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental **condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation** which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
 - 1. Reading and writing ability assessment (11 CCR 1951)
 - 2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.8.2 STANDARDS FOR DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

- (a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)
- (b) An oral communication assessment (11 CCR 1958)
- (c) A medical evaluation (11 CCR 1960)

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Early Warning System

1019.1 PURPOSE AND SCOPE

The purpose of this order is to establish policy and procedure for an informal performance review and intervention program, the "Early Warning System" (EWS). The program monitors employee performance that may be inconsistent with professional police conduct and cooperatively engages employees to resolve areas of concern. The goal of EWS is early identification of employee performance issues and correction of these issues through constructive counseling sessions, intervention, and/or training rather than the formal disciplinary process

1019.2 POLICY

It is the policy of the BART Police Department to maintain an Early Warning System to provide early intervention to possible problematic behaviors so that changes can be made prior to discipline being the only corrective option. The EWS is one method by which employees may be identified as possibly needing assistance with performance and/or stress related problems. The EWS is intended as an approach to highlight tendencies that may otherwise be overlooked.

All employees shall participate in the EWS program and comply with the guidelines set forth in this policy. Participation in the EWS program shall not be deemed punitive, nor a formal disciplinary process. Notwithstanding the initiation of the EWS process, the Department retains its right and responsibility with regard to investigation of policy violation and enforcement of employee discipline.

1019.3 PROCEDURE

EWS is a non-disciplinary tool that does not relieve supervisors and managers of their responsibility to directly monitor the performance of their subordinates and take appropriate action in response to performance or behavioral issues.

Employee behavior or performance that is subject to EWS review includes, but is not limited to:

- (a) Administrative Internal Affairs investigations
- (b) Formal citizen complaints
- (c) Informal citizen complaints
- (d) Use of force incidents
- (e) Obstructing/resisting arrest incidents
- (f) Preventable Vehicle collisions
- (g) Negligent discharge (firearm/TASER)
- (h) Substandard conduct/performance concerns observed by a supervisor or manager
- (i) Attendance discussion or corrective action as defined in Policy 1014
- (j) Late activation or non-activation of **body worn cameras** when activation is required by **Policy 451.5**

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(k) Negligent discharge of TASER (not to include training scenarios)

Personnel assigned to the Internal Affairs Unit shall maintain records of the above incidents. When a designated threshold level is met for a single category or for the sum of all categories, Internal Affairs will notify the involved employee that a threshold level has been met and will be reviewed for potential initiation of the EWS program. The review will be conducted within the employee's chain of command and/or the Internal Affairs Unit. Incidents of obstructing/resisting arrest on the part of suspects will also be analyzed during the review to determine if there is anything associated with the employee's performance and/or conduct that may be eliciting resistance from suspects.

Threshold levels are established as follows:

Category	Threshold Level
Administrative Investigation	2 in 12 months
Formal Citizen Complaint	3 in 12 months
Informal Citizen Complaint	3 in 12 months
Use of Force	12 in 12 months
Preventable Vehicle Collisions	2 in 24 months
Negligent Discharge of a Firearm	1 in 12 months
Attendance Discussion or Corrective Action	2 in 12 months
Late Activation or Non-activation of AXON Flex	2 in 6 months
Negligent Discharge of a TASER (not to include training scenarios)	1 in 12 months
Overall	15 in 12 months

Supervisors and managers shall monitor the activity of their subordinate employees to identify actual or perceived unprofessional behavior and/or substandard performance that is subject to EWS review. They shall communicate such information to the Chief of Police via the Chain of Command. The EWS may be initiated based on cause, even when none of the listed threshold levels have been met.

The Office of the Chief of Police shall be responsible for aggregation and administrative management of information and records associated with the EWS program. The Administrative Analyst assigned to the Office of the Chief of Police shall be responsible for preparing quarterly reports summarizing information and activities associated with the EWS program. The reports will contain documentation as to whether or not EWS was implemented for the employee, and the associated reasoning.

Information and records associated with the EWS program are used for personnel purposes. Accordingly, they are confidential personnel files and not public records. Documents, data, and records shall be maintained by the Office of the Chief for a period of two (2) years.

Access to EWS records shall be restricted to the Office of the Chief. An individual employee shall be granted access to EWS records that pertain to that employee. The employee will give the Office of the Chief a reasonable amount of notice before having access to the file.

Early Warning System

1019.4 ADMINISTRATIVE REVIEW BOARD

The Chief of Police shall convene a quarterly Review Board comprised of the Divisions Deputy Chiefs and the Internal Affairs Lieutenant, to review program records to determine if initiation of the EWS Program is recommended. Upon consideration of the Review Board's recommendation, the Chief of Police may direct an employee to participate in the EWS program. The Board may also convene as needed to review situations of relative urgency.

1019.5 INITIATION OF THE EWS PROGRAM

Upon direction of the Chief of Police, an informal counseling meeting shall be held that may include:

- (a) The subject employee
- (b) The Chief of Police and/or his designee.
- (c) The employee's Bureau Deputy Chief and/or his/her designee.
- (d) The employee's direct supervisor.

The subject employee may have one fellow employee accompany him/her to the counseling meeting. The accompanying employee's presence is allowed to offer general support to the subject employee, not to be an active participant in the counseling meeting.

Unless impractical, the counseling meeting shall be held during the employee's regularly scheduled working hours.

The meeting shall not be deemed a punitive or disciplinary proceeding against the employee. In the meeting, the employee shall be informed of the behavioral and/or performance concern(s) at issue, and he/she shall be allowed an opportunity to offer a response. If applicable, the employee may be required to attend necessary training. The employee may also be given information regarding the BART District Employee Assistance Program.

If the subject employee requests training, the Chief of Police may grant the request if the training is relevant and appropriate.

The content of the meeting, and/or resulting training for the employee, may be documented for placement into the employee's personnel file and/or Employee Development Record (EDR). Training issues may also be documented in an employee evaluation. All quarterly reviews and meetings shall be maintained in the strictest confidence and shall not be discussed with other employees without an authorized need to know. Purging of material in personnel files shall be governed by applicable law and the collective bargaining agreement.

If EWS is initiated multiple times for the same employee, additional training, referral, and/or other responsive action may be directed as appropriate.

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Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the Bay Area Rapid Transit Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated policies:

Department Owned and Personal Property

Body Armor

Personal Appearance Standards

The Uniform and Equipment Specifications **manual** is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

The Bay Area Rapid Transit Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) All employees of this department who are issued uniforms shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and **assignment (Penal Code § 13655)**.
- (d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.
- (e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.
- (h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.

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- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical. **Officers in full uniform may present their business card as a form of department identification.**
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by the Chief of Police or his/her designee.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve shirt with tie
- (b) Shoes shall be black with plain toes and constructed of highly polished leather or similar material, such as corfam or patent leather. Footwear with wedge-type soles, pointed toes, or squared or cowboy-type heels shall not be worn. Ornamental stitching, straps, or buckles are prohibited. Boots shall be constructed of black leather or leather-like material with a breathable black fabric panel. The boots are approximately 6-8" in height, waterproof, and have a lug sole.

1046.3.2 CLASS B UNIFORM

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required
- (b) A black crew neck t-shirt must be worn with the uniform
- (c) All shirt buttons must remain buttoned except for the last button at the neck

1046.3.3 CLASS C UNIFORM

The Class C uniform may be established to allow field personnel cooler clothing during the summer months or special duty. The Chief of Police will establish the regulations and conditions for wearing the Class C Uniform and the specifications for the Class C Uniform.

1046.4 INSIGNIA AND PATCHES

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- (a) **Shoulder Patches** - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.
- (b) **Service stripes, stars, etc.** - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.
- (c) **The regulation nameplate, or an authorized sewn on cloth nameplate,** shall be worn at all times while in uniform. The nameplate shall display the employee's first and last name. If an employee's first and last names are too long to fit on the nameplate, then the initial of the first name will accompany the last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (d) **When a jacket is worn,** the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.
- (e) **Assignment Insignias** - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.
- (f) **Flag Pin** - A flag pin may be worn, centered above the nameplate.
- (g) **Badge** - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.
- (h) **Rank Insignia** - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.
- (c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
- (d) The following items shall not be worn on duty:
 - 1. T-shirt alone

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2. Open toed sandals or thongs
 3. Swimsuit, tube tops, or halter-tops
 4. Spandex type pants or see-through clothing
 5. Distasteful printed slogans, buttons or pins
- (e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Bay Area Rapid Transit Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Bay Area Rapid Transit Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Bay Area Rapid Transit Police Department to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this order as optional shall be done as follows:
 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
 2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (see the Department Owned and Personal Property Policy).

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1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Bay Area Rapid Transit Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Bay Area Rapid Transit Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

1046.9 UNIFORM REPLACEMENT

Replacement or repair of uniforms and equipment authorized by the Department, damaged in the line of duty, will be replaced or reimbursed in accordance with department policy or collective bargaining agreement. An examination of the equipment and the facts surrounding the incident will be made by supervisory personnel. A recommendation will then be forwarded to the appropriate Deputy Chief. When it is determined that an employee's negligence has caused the damage to the uniform or equipment, reimbursement for loss will not be granted.

To file a claim for articles damaged in the line of duty, employees are required to complete a BART Police Department Uniform/Equipment/Personal Property Replacement form, including a report of the circumstances surrounding the damage. To qualify for reimbursement under this program, the circumstances must be those that are related to the employee's scope of employment and beyond his/her control. This would include those situations requiring emergency action, as opposed to those situations of a routine task in which the employee has the time and the opportunity to exercise reasonable and prudent care. Items not required by reason of the job, such as jewelry or other adornments, would not qualify for reimbursement. Other items not specifically listed above will be evaluated on the individual merits of the circumstances leading to the damage or loss.