

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: SUBSTANTIAL RISKS OF
POSITIONAL ASPHYXIA**

DATE: December 22, 2021

APPROVED

Memo# 2021-046

BACKGROUND

On September 30, 2021, California Governor Newsom signed [California Assembly Bill 490 \(link\)](#), which resulted in the expansion of Government Code Section 7286.5. This amended law prohibits a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. This law will be effective January 1, 2022.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2902 PROCEDURES IMMEDIATELY FOLLOWING ARREST: *Revised 12-22-21*

When an arrest has been made, the officer making the arrest will immediately, if possible and practical, perform the following tasks:

- Inform the arrestee of the charge.
- Conduct a cursory search to ensure the officer's and others' safety. See Duty Manual Section L 5100 ~~–~~ {Cursory Searches}.
- Handcuff the ~~arrestee offender~~ arrestee behind the back if there is a danger of escape or if the ~~arrestee prisoner~~ arrestee poses a danger to the officer's or others' safety. Handcuffs are used as a restraint in any situation where such action is considered warranted. The handcuffs are only to be tightened to the point that the hands do not slip through. And in all cases when the ~~arrestee prisoner~~ arrestee is to be transported in the vehicle or seated in a chair, the handcuffs are double locked so as to prevent the handcuffs tightening on the ~~arrestee's prisoners'~~ arrestee's wrists.
- Search the area within the arrestee's immediate reach. For procedures on search incident to arrest, see Duty Manual Section L 4800 ~~–~~ {Search and Seizure}.

- Officers shall make reasonable efforts to secure any residence and/or vehicle of the arrestee, if they are the sole occupant.
- Transport the arrestee using techniques and methods that do not involve a substantial risk of positional asphyxia. See Duty Manual Section L 2628.3 – TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION.
- Transport the arrestee without delay to ~~Pre-processing~~. Officers are not to become involved in enforcement situations unless an immediate emergency exists and no other officers are available to respond. If an officer does have to stop with an arrestee ~~prisoner~~, the situation is turned over to another officer as soon as possible. Officers will not become involved in pursuits when transporting arrestees ~~prisoners~~.
- After transporting an arrestee, thoroughly search the police vehicle in the event evidence or weapons have been discarded during transportation.

L 2628.3 **TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION**

Added 12-22-21

Department members shall not use techniques or transport methods that involve a substantial risk of “positional asphyxia.” Positional Asphyxia is defined as, “Situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing.”

This includes, without limitation, the use of any physical restraint that causes a person’s respiratory airway to be compressed or impairs the person’s breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person’s neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:DK