

INTRADEPARTMENTAL CORRESPONDENCE

December 14, 2021

1.14

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: POSITIONAL ASPHYXIA – ESTABLISHED; USE OF THE HOBBLE RESTRAINT DEVICE; AND, TRANSPORTING INJURED SUSPECTS/ARRESTEES/INMATES – REVISED

RECOMMENDED ACTION

It is recommended that the Board of Police Commissioners REVIEW and APPROVE the newly established policy regarding positional asphyxia, as well as the revised associated policies on the use of the hobble restraint device and transporting of injured individuals in police custody.

DISCUSSION

California Assembly Bill 490 (AB 490), which will take effect on January 1, 2022, has revised Government Code Section 7286.5 (a)(4) to both define positional asphyxia and prohibit law enforcement agencies from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. The attached Special Order adds and amends several Department Manual sections pursuant to AB 490's requirements, with the definition therein.

Should you have additional questions regarding this matter, please contact Director Lizabeth Rhodes, Office of Constitutional Policing and Policy, at (213) 486-8730.

Respectfully,



MICHEL R. MOORE
Chief of Police

Attachments

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO.

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON

SUBJECT: POSITIONAL ASPHYXIA – ESTABLISHED; USE OF THE HOBBLE RESTRAINT DEVICE; AND, TRANSPORTING INJURED SUSPECTS/ARRESTEES/INMATES – REVISED

PURPOSE: California Assembly Bill 490 (AB 490), which will take effect on January 1, 2022, prohibits law enforcement agencies from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. The purpose of this Order is to add and amend various Department Manual sections pursuant to AB 490's requirements.

Assembly Bill 490 has revised Government Code Section 7286.5 (a)(4) to define positional asphyxia 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."

PROCEDURE:

- I. POSITIONAL ASPHYXIA – ESTABLISHED.** Department Manual Section 4/217.38, *Positional Asphyxia*, has been established and is attached.
- II. USE OF THE HOBBLE RESTRAINT DEVICE – REVISED.** Department Manual Section 4/217.40, *Use of the Hobble Restraint Device*, has been revised. It is attached with the revisions indicated in italics.
- III. TRANSPORTING INJURED SUSPECTS/ARRESTEES/INMATES – REVISED.** Department Manual Section 4/648.13, *Transporting Injured Suspects/Arrestees/Inmates*, has been revised. It is attached with the revisions indicated in italics.

AMENDMENTS: This Order adds Section 4/217.38; and, amends Sections 4/217.40 and 4/648.13 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.


MICHEL R. MOORE
Chief of Police

Attachments

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217.38 POSITIONAL ASPHYXIA. *Techniques or transport methods that involve a substantial risk of positional asphyxia (PA) are not authorized by the Department. 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."*

Officer(s) shall ensure that an individual (e.g., a detainee or arrestee) is not placed in a position that involves a substantial risk of PA. Some factors that may increase the risk of PA, in addition to any risk created by how a person is positioned, can include, but are not limited to:

- *An altered mental state;*
- *Intoxication;*
- *Trauma;*
- *Exhaustion;*
- *Obesity; and,*
- *Underlying medical problems especially those that are cardiac or respiratory in nature.*

Some examples of techniques that may cause a substantial risk of PA include, but are not limited to:

- *Any prolonged positioning where the suspect's neck is not in a normal, neutral alignment (e.g., having the head forced down or to one side or the other);*
- *Having the suspect's upper torso lower than their waist. An extreme example would be an individual suspended upside down;*
- *Lying of the suspect in a prone position for a prolonged period, with their arms handcuffed behind the back; and,*
- *Having the suspect's body leaning forward for a prolonged period, when seated.*

Note: *Officers shall periodically monitor seated and forward-leaning suspects (e.g., an arrestee handcuffed in the rear of a police vehicle) for any difficulty breathing.*

Note: *All of the above can be worsened with the application of pressure to the neck, chest, or back.*

Employee's Responsibilities. *Personnel shall immediately request a rescue ambulance (RA) to the scene for any individual who exhibits or complains of difficulty breathing. Any incident resulting in a person exhibiting or complaining of difficulty breathing, or resulting in injury, or hospitalization of a detainee or arrestee for suspected or diagnosed PA, stemming from an officer-applied technique or transport method, shall be immediately reported to a supervisor.*

Supervisor's Responsibilities. *A supervisor responding to the scene of any incident resulting in the injury or hospitalization of an individual for complaint of PA stemming from any officer-*

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applied technique or transport method, shall notify the watch commander and document the incident in their Sergeant's Daily Report, Form 15.48.00. In any incident resulting in hospitalization, the supervisor shall ensure preservation of the scene of the incident until further notified by the watch commander or Force Investigation Division (FID).

Watch Commander's Responsibilities. *The watch commander shall notify the Department Operations Center (DOC) and FID, as appropriate, of any incident resulting in the injury or hospitalization of an individual for suspected PA stemming from an officer-applied technique or transport method. The watch commander shall document the incident and all notifications in their Watch Commander's Daily Report, Form 15.80.00.*

217.40 USE OF THE HOBBLE RESTRAINT DEVICE.

Use of the Hobble Restraint Device. The Hobble Restraint Device (HRD) can be used to control a violent or potentially-violent arrestee, or as a restraining device on a non-violent arrestee when normal handcuffs are impractical due to injury or other extenuating circumstances (e.g., size of the suspect).

Note: The mere application of the HRD does not constitute a reportable use of force.

The HRD was designed to be used to secure the ankles, knees or elbows of an individual who is potentially violent or displaying violent behavior by kicking, fighting, biting, punching, or thrashing about, or to secure a person's feet during transportation in a police vehicle. These applications can be varied according to the circumstances an officer may encounter, but in each application, care should be taken to prevent injury to the arrestee. Once the HRD is secured, officers shall immediately search the waistband area and then immediately place the individual in an upright, seated position or on his or her left side (left lateral recumbent position). If this is not possible due to medical or tactical issues, then placing the individual on *their* right side is an acceptable substitute. *Officers shall ensure that a detained or arrested individual is not placed in a position that involves a substantial risk of positional asphyxia and shall reasonably monitor all such individuals for signs of asphyxia, consistent with Department Manual Section 4/217.38.*

Note: The HRD **shall not** be used to bind the suspect's hands and feet together in any manner.

Officers may use the HRD to secure a violent or potentially-violent person transported in a police vehicle when:

- The person's hands are secured with handcuffs that are double-locked behind the person's back;
- The person is secured to the police vehicle seat with the police vehicle's safety belt; and,
- The HRD strap is pulled out of the rear door, the loose end (snap-hook end) of the strap is placed on the front passenger floorboard, and both doors are closed to secure the strap.

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Officers shall request a rescue ambulance to transport a violent person only:

- If the person in the police vehicle would likely sustain a serious injury or cause vehicle damage and requires restraint to the extent that he or she must be transported in a recumbent position; or,
- If the person is injured or physically ill and is in need of immediate medical attention.

648.13 TRANSPORTING INJURED SUSPECTS/ARRESTEES/INMATES. Suspects, arrestees and inmates that require routine medical treatment may be transported in a police vehicle to a Department Jail Dispensary, the Los Angeles County-University of Southern California Medical Center (LAC-USCMC), or a hospital. When suspects, arrestees or inmates require emergency medical attention, they shall only be transported via City rescue ambulance (Department Manual Section 4/210.75). When it is necessary to transport a suspect, arrestee or inmate by ambulance, generally at least one officer shall accompany the suspect, arrestee or inmate in the ambulance.

Officers **shall** accompany all restrained suspects, arrestees or inmates being transported to the hospital by rescue ambulance. This will ensure that adjustments to the restraints (e.g., handcuffs and Hobble Restraint Device) can be made, as necessary, for medical treatment and allow for the overall management and safety for all. *Officers shall ensure that neither the transport method nor the restraint(s) involve a substantial risk of positional asphyxia and shall reasonably monitor all restrained individuals for signs of asphyxia, consistent with Department Manual Section 4/217.38.*

Fire Department personnel may require that the restraints be removed in order to provide appropriate medical treatment. In those cases, the officer shall closely monitor the suspects, arrestees or inmates.

Exception: When an issue arises between Department personnel and the treating or the transporting Fire Department personnel, Department personnel may seek the advice of an on-scene supervisor or the on-duty watch commander; however, they shall not delay the transportation. If Fire Department personnel refuse to allow an officer to ride in the ambulance or an officer cannot be reasonably accommodated in the ambulance due to necessary medical treatment, at least one officer shall ride in the front passenger seat of the rescue ambulance or follow the rescue ambulance in their assigned police vehicle. Thereafter, the officer(s) **shall** document the incident on an Employee's Report, Form 15.07.00, addressed to the commanding officer of the involved Department entity. The concerned divisional watch commander shall log the incident in his or her Watch Commander's Daily Report, Form 15.80.00, and attach the Employee's Report.

Note: When the suspect's clothing or other items with the suspect have evidentiary value and cannot be removed prior to transportation, the assigned officer shall ensure that the chain of custody of such evidence is documented in the appropriate report.