

CITY OF
ANTIOCH
CALIFORNIA

STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of December 14, 2021

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Anthony Morefield, Interim Chief of Police *Am. #3320*

APPROVED BY: Ron Bernal, City Manager

SUBJECT: Police Reform - Antioch Police Department (APD) Positional Asphyxia Policy

RECOMMENDED ACTION

It is recommended that the City Council:

1. Consider the positional asphyxia policy recommended by the Police Oversight Standing Committee and the revisions to the policy recommended by the Antioch Police Officers Association and
2. Adopt the resolution approving an Antioch Police Department Positional Asphyxia Policy for inclusion in the Antioch Police Department Policy Manual including the incorporation of any desired revisions to the policy.

FISCAL IMPACT

There is no fiscal impact in accepting and approving this policy.

DISCUSSION

During the Regular Council Meeting on August 24, 2021, the City Council directed the City Manager and the City Attorney to work with the Chair and Vice-Chair of the Police Oversight Standing Committee and the Antioch Police Department to develop a new positional asphyxia policy. The new policy's intent is to protect members of the public involved in law enforcement incidents by identifying and prohibiting the use of Police Officer restraints, holds, tactics and maneuvers that pose a substantial risk of positional asphyxiation, potentially resulting in unconsciousness or death.

Command Staff and subject matter experts from the Antioch Police Department researched existing positional asphyxia policies from around the world, including medical expert opinions on the matter. In addition, the City team examined federal and state laws which guide law enforcement use of force along with reports on industry best practices.

On September 7, 2021, staff met with the Chair and Vice-Chair of the Police Oversight Standing Committee to review the gathered materials and receive further guidance. A draft positional asphyxia policy was created and underwent further revision by an ad hoc committee from the Police Oversight Standing Committee, Police Department staff, and the City Attorney.

The draft positional asphyxia policy was presented to and approved by the Police Oversight Standing Committee on September 28, 2021 (Attachment B). Upon reviewing the draft policy, the committee further directed staff to meet and confer with impacted bargaining units and present any redline comments to City Council. Staff later met with the APOA (Antioch Police Officers Association) who provided redline edits to the draft positional asphyxia policy (Attachment C).

The Police Department contracts with a company called Lexipol which designs web-based policy manuals and training for law enforcement agencies all over the United States. Lexipol further provides a full library of customizable, state-specific law enforcement policies that are updated in response to new state and federal laws and court decisions. The positional asphyxia policy is consistent with federal and state guidance as well as industry best practices.

ATTACHMENTS

- A. Resolution
- B. Positional Asphyxia Policy Recommended for City Council Approval by the Police Oversight Standing Committee on September 28, 2021 (clean)
- C. Draft APD Positional Asphyxia Policy (with redline comments from APOA)
- D. Proposed APD Positional Asphyxia Policy (clean copy)

ATTACHMENT "A"

RESOLUTION NO. 2021/
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
APPROVING THE ANTIOCH POLICE DEPARTMENT POSITIONAL ASPHYXIA
POLICY**

WHEREAS, on April 13, 2021, the Antioch City Council established a Police Reform Standing Committee of the Whole City Council;

WHEREAS, on June 8, 2021, the Police Reform Standing Committee of the Whole City Council was renamed to the Police Oversight Standing Committee;

WHEREAS, one of the standing committee's responsibilities is to review Antioch Police Department policies;

WHEREAS, on August 24, 2021, the Antioch City Council directed the City Manager and the City Attorney to work with the Chair and Vice-Chair of the Police Oversight Standing Committee and the Antioch Police Department to develop a new policy intended to protect members of the public involved in law enforcement incidents by identifying and prohibiting the use of Police Officer restraints, holds, tactics and maneuvers that pose a substantial risk of positional asphyxiation, potentially resulting in unconsciousness or death;

WHEREAS, staff presented a draft policy for Positional Asphyxia to the Police Oversight Standing Committee on October 26, 2021;

WHEREAS, the Police Oversight Standing Committee reviewed the draft Positional Asphyxia Policy and directed staff to meet and confer with bargaining units and present their redline comments to City Council when subsequent action to adopt the policy was considered by the City Council; and

WHEREAS, staff later met with the APOA (Antioch Police Officers Association) who provided redline edits to the draft Positional Asphyxia Policy.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED that the City Council of the City of Antioch hereby approve the Antioch Police Department Positional Asphyxia Policy.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch, at a regular meeting thereof, held on the 14th day of December, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**ELIZABETH HOUSEHOLDER
CITY CLERK OF THE CITY OF ANTIOCH**



Antioch Police
Department
Antioch PD Policy Manual

Positional Asphyxia

XXX.X PURPOSE AND SCOPE

This policy provides guidelines concerning positional asphyxia. It applies anytime there is a use of force or restraint applied to a person. Positional asphyxiation is insufficient intake of oxygen as a result of body position that interferes with the person's ability to breath. It can occur during the process of subduing and restraining a person by placing the person in a posture that prevents or impedes the process of normal breathing. Restraint in the prone position presents a significant risk of asphyxia, particularly when a person is handcuffed and left in a facedown position. People may die from positional asphyxia, when the mouth and nose are blocked or where the chest may be unable to fully expand.

XXX.1 DEFINITIONS

Definitions related to this policy include:

Positional Asphyxia - Occurs when the position of the body interferes with respiration and results in asphyxia (a condition arising when the body is deprived of oxygen).

Recovery Position - Position used to situate an unconscious/passive person (typically on their side) in a manner to help keep their airway open and clear to ease breathing and avoid positional asphyxia.

XXX.2 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

Prior to booking or release, 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.

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

ATTACHMENT "B"

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).

XXX.3 POSITIONAL ASPHYXIA REQUIREMENTS

Officers shall comply with the following conduct concerning positional asphyxia:

- a) A person lying on their stomach in a face-down position may have difficulty breathing. An officer shall only physically force a person to a face down position when reasonably necessary to do so to protect the safety of the person, the officer, or pedestrians.
- b) Immediately following the application of force or restraint of a person, and as soon as it is safe to do so, officers shall position a person in a recovery or seated position to allow for free breathing and to avoid positional asphyxia.
- c) Any body-to-body contact or officers' placement of weight on a person must be transitory. Officers shall not forcibly hold down or place weight on a prone person any longer than reasonably necessary to safely restrain the person. As soon as practicable, an officer's weight on a person shall be removed. Officers shall be aware of the amount and duration of any weight placed on a person.
- d) If officers hold a person down while restraining them, officers shall avoid placing weight on the person's neck or head which can fracture the hyoid bone or cervical spine. No more than two officers shall place weight on a person's upper body or torso. If additional assistance is needed, an additional officer or officers may restrain a person's limbs to restrict their movement.
- e) Once officers safely restrain a person, officers shall not sit, kneel, stand, or place their weight on a person's chest, back, stomach, or shoulders.
- f) Officers must inquire about a restrained person's well-being, including, but not limited to, that person's recent use of drugs, any cardiac condition, or any respiratory conditions or diseases. Officers shall recognize and respond to risks such as the person saying that they "can't breathe", gurgling or gasping sounds, panic, prolonged resistance, the lack of resistance, etc. Officers must be aware of environmental factors, including the nature and temperature of the surface on which they are restraining a person. For example, holding a person down on a hot surface, or in mud or water, can cause other injury or impair breathing.
- g) If a person continues to resist after being restrained, officers must check if any resistance is related to a person's difficulty breathing. When a person has their breathing restricted, the person may struggle more. What officers perceive as resistance may be an indication that the person is struggling to breathe.
- h) Officers shall share any relevant information regarding a person's condition, medical condition, what has transpired during their interaction, or any information about drug or alcohol use, which might be medically relevant, to other officers, personnel, or individuals administering medical aid. If there has been any restriction to a person's breathing, such information is medically relevant and shall be shared at the first practical opportunity.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse

ATTACHMENT "B"

sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, may be experiencing a serious medical condition and at 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 away if appropriate.

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Antioch Police Department
Antioch PD Policy Manual

Positional Asphyxia

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Commented [1]: APOA: suffocated (not moul) and non (noctive) symptoms: immediate medical attention and not (not) APOA

The APOA feels when the mouth and nose are blocked to prevent breathing would be more indicative of suffocation, not asphyxia.

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Based upon the officer's initial assessment of the nature and extent of the subject's injuries,

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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 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).

XXX.3 POSITIONAL ASPHYXIA REQUIREMENTS

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- a) A person lying on their stomach in a face-down position may have difficulty breathing. An officer shall only physically force a person to a face down position when reasonably necessary to do so to protect the safety of the person, the officer, or ~~pedestrians~~ ~~civilians~~.
- b) Immediately following the application of force or restraint of a person, and as soon as it is safe to do so, officers shall position a person in a recovery or seated position to allow for free breathing and to avoid positional asphyxia.
- c) Any body-to-body contact or officers' placement of weight on a person must be transitory. Officers shall not forcibly hold down or place weight on a prone person any longer than reasonably necessary to safely restrain the person. As soon as practicable, an officer's weight on a person shall be removed. Officers shall be aware of the amount and duration of any weight placed on a person.
- d) If officers hold a person down while restraining them, ~~officers should~~ ~~all~~ avoid placing weight on the person's neck or head which can fracture the ~~hyoid bone~~ or cervical spine.

The APOA feels restraint to the head may be necessary to prevent person(s) from hurting themselves or others. For example, violent or combative persons have been known to harm themselves by slamming their head into the ground, or into objects or others. Therefore, when this situation presents itself, it may be necessary to control the persons head to avoid self-inflicted injury. There also times which may require an officer to control a combative persons head to prevent, spitting, biting and or both.

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Commented [2]: APOA raised concern about limiting officers' ability to restrain an individual's neck or head for legitimate reasons (i.e. they are purposefully injuring themselves, or spitting on others). The City felt the policy should remain as is.

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~~No more than two officers shall~~ ~~should~~ place weight on a person's upper body or torso. If additional assistance is needed, an additional officer or officers may restrain a person's limbs to restrict their movement.

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Commented [3]: APOA wanted this section to use permissive language i.e. "should" and City disagreed and felt the mandatory "shall" language should remain.

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The language "no more than two officers" can restrict an officer's ability to take someone into custody and restrain them in a safe manner. There have been several incidents/situations where officers have encountered persons who are under the influence of drugs (PCP, Methamphetamines, LSD, etc) or alcohol which may cause a person to have extraordinary strength. Encountering a person as described, can determine how many officers it may require to restrain a person. Often this situation requires more than two officers based on the officer's physical size, strength, and physical abilities to control a person.

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The current language provided limits the officers safety to detain and or take someone into custody.

Officers are trained to immediately place a person who has been in the face down position during an arrest or detention into a "recovery position."

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- d)
- e) Once officers safely restrain a person, officers shall not sit, kneel, stand, or place their weight on a person's chest, back, stomach, or shoulders.
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 - g) If a person continues to resist after being restrained, officers must check if any resistance is related to a person's difficulty breathing. When a person has their breathing restricted, the person may struggle more. What officers perceive as resistance may be an indication that the person is struggling to breathe.
 - h) Officers shall share any relevant information regarding a person's condition, medical condition, what has transpired during their interaction, or any information about drug or alcohol use, which might be medically relevant, to other officers, personnel, or individuals administering medical aid. If there has been any restriction to a person's breathing, such information is medically relevant and shall be shared at the first practical opportunity.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, may be experiencing a serious medical condition and at 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 away if appropriate.



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