



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Mayor Liccardo  
Vice-Mayor Jones  
Councilmember Diep  
Councilmember Carrasco

**SUBJECT:** SEE BELOW

**DATE:** August 14, 2020

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**Approved**

**Date 8/14/20**

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## POLICE DEPARTMENT DUTY MANUAL AMENDMENTS

### RECOMMENDATION:

1. Approve amendments to the Police Department Duty Manual referenced as one through five in the July 27, 2020 Memo that follow the direction provided by the City Council as part of the police reforms work plan.
2. Direct the City Manager to:
  - a. Strengthen amendment six, to ban the use of rubber bullets in any crowded setting.
  - b. Ban the use of the Carotid Restraint for any purpose other than self-defense of the officer or defense of another person, and only where the officer or other person's life is under imminent and serious threat of death--commensurate with the necessary predicate for the use of a firearm.

### DISCUSSION:

We applaud the San Jose Police Department for their quick action to update the Duty Manual. It is an important indication of our commitment to police reform.

The June 16, 2020 revision to Duty Manual section 2629.5 does not go far enough, however. The prohibition on the use of projectile impact weapons for crowd control does not suffice to address

the many contexts in which rubber bullets can cause serious injury or death. As we've recited in previous memoranda, several U.S. and international studies have demonstrated, and our own experience confirms, that rubber bullets pose serious risk of harm to residents. Equally important, officers cannot sufficiently control the trajectory of rubber bullets in crowded environments to prevent harming innocent people. The San Jose Police Department should consider alternative tools as part of its training and response planning for crowded situations.

The San Jose Police Department Duty Manual currently bans the use of a choke hold, but allows for the use of a carotid restraint. In the carotid restraint, an officer blocks the flow of blood to a detainee's brain, leading the person to lose consciousness. This is deadly force, and it should be recognized as such. People Acting in Community Together (PACT) had asked San Jose to ban this technique in 2016. Governor Gavin Newsom took action to ban training on the use of the carotid restraint in any future California Peace Officers Standards and Training (POST) courses in June. Dozens of law enforcement agencies in the State have banned the restraint since June. Amending the Duty Manual to ban the use of the carotid restraint for any purpose other than self-defense helps to further bring San Jose in line with the 21st century best practices and policing.

### **BROWN ACT**

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.*