

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 17, 2008

POLICE REGULATIONS – CHAPTER 2

PERSONAL CONDUCT AND DUTY REQUIREMENTS

Reporting Misconduct

PR 200 **Misconduct – Duty to Report.** When an employee, who is not a supervisor, becomes aware of or observes what he/she believes to be misconduct by another Department employee, he/she shall, by the end of the employee's current shift, or if off duty within 24 hours, notify a supervisor, or in the absence of a supervisor a Command Officer or the Internal Affairs Bureau. A written report documenting the alleged misconduct shall be made by the reporting employee initiating the complaint if required by the Supervisor, Command Officer or Internal Affairs.

(a) Serious allegations, including but not limited to those listed below, shall be reported immediately.

(1) Dishonesty.

(2) Any act which may constitute the commission of a misdemeanor or felony crime.

(3) Improper use of force.

(4) Employee(s) under the influence of intoxicants.

(5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.

PR 201 **Misconduct – Supervisory and Command Officer Responsibilities.** A Supervisory or Command Officer with knowledge of, or who is made aware of, alleged acts of misconduct shall take appropriate corrective action. Such supervisors shall also notify their Commanding Officer or the Duty Command Officer, who shall give direction as to the proper procedure for documenting the complaint. Generally, the procedures will follow the guidelines listed in General Order P-26 relating to either external or internal complaints.

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- (2) Any act which may constitute the commission of a misdemeanor or felony crime.
- (3) Improper use of force.
- (4) Employee(s) under the influence of intoxicants.
- (5) Any discrimination or harassment on the basis of race, color, religion, ancestry, national origin, sexual orientation, gender, marital status, age, political affiliation, family care leave status, physical or mental disability or medical condition.

Arrests, Prisoners/Suspects, Criminal Cases

- PR 202 Arrest – Use of Force. Employees shall not use inappropriate force or more force than necessary in making an arrest or in the carrying out of assigned duties.
- PR 203 Prisoners – Property – Receipts For. Prisoners and other persons shall be given receipts for money and other property taken from them in accordance with the provisions of the California Penal Code.
- PR 204 Prisoners – Treatment During Detention. Prisoners shall be treated in a fair and humane manner at all times as provided by law. They shall not be subjected to physical force other than as may be required in subduing violence, assuring detention, or as necessary in overcoming physical resistance offered in disobedience to a lawful order. No employee shall strike a prisoner or suspect except when necessary in the prevention of an escape, in self defense, or in the prevention of violence to another person. Any determination concerning the propriety of force used will be based on facts and the information available to the employee at the time force was employed, and not upon information gained after the fact.
- PR 205 Prisoners – Suspects - Safeguarding. Employees shall be cautious in the arrest and detention of prisoners or suspects and shall take all necessary precautions to prevent prisoners from escaping, carrying weapons on their persons after arrest, injuring themselves or any other persons, or damaging property.
- PR 206 Prisoners – Suspects – Availability of Weapons. Employees shall not place weapons or other objects capable of inflicting serious bodily injury, or permit such weapons or objects to remain unattended in any location in the **Public Safety Building** accessible to a prisoner or suspect. This regulation shall not apply to fixtures or furnishings which are part of the physical plant.

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- PR 207 Prisoners – Suspects – Females – Handling. Female prisoners or suspects shall be touched only as necessary in taking them into custody and determining that weapons are not being concealed. This Regulation shall not apply to a female employee conducting the search of the person of a female prisoner or suspect.
- PR 208 Prisoners – Suspects – Transporting. When an employee transports a prisoner or suspect of the opposite sex, the employee shall either be accompanied by a second person or shall provide the Communications Center via radio the number of the police vehicle being used for transportation and the odometer reading thereon, both before and after the transportation. The Communications Center shall acknowledge each radio transmission, including the time thereof.
- PR 209 Prisoners – Suspects – Females. Women employees should be utilized to assist in processing female prisoners or suspects whenever possible or practical, consistent with officer safety considerations. Employees should not talk to a prisoner or suspect of the opposite sex alone in an interview room unless there is visibility into the room through glass or an open door.
- PR 210 Compromising Criminal Cases – Taking Part In. Employees shall not interfere with the courts, nor for personal gain or benefit use their official position to make any arrangement for any person to evade prosecution.
- PR 211 Criminal Information – Revealing – Prohibited. Employees shall not reveal any information in their possession, however obtained, which may enable anyone to evade detection, arrest or prosecution; or enable anyone to destroy evidence, or to destroy or secrete stolen property. Nor shall any employee divulge official or confidential information or arrest record to any unauthorized person or agency.
- PR 212 Withholding Criminal Information. Employees receiving or possessing facts or information relative to a criminal offense or case shall not retain such facts or information through ulterior motives, desire for personal credit, or aggrandizement, but shall report the facts or information in accordance with Departmental procedures.
- PR 213 Prisoners – Suspects – Transacting With. No employee shall buy or accept any article for personal disposition from any suspect or prisoner nor from any associate of any suspect or prisoner.
- PR 214 Prisoners – Bail – Employee Posting. Employees shall not arrange bail for persons under arrest, except for members of their immediate family, as defined in City of Berkeley Personnel Rules and Regulations, without the consent of a commanding officer.

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PR 215 Bail Bond Companies – Arranging For. Employees shall not suggest the name of nor recommend any person or firm engaged in the business of furnishing bail, except for members of their immediate family, as defined in City of Berkeley Personnel Rules and Regulations. Employees shall be governed in their relations with bail bond brokers by Departmental Orders.

PR 216 Attorneys – Arranging For. Employees shall not suggest the name of nor recommend any attorney to any prisoner or person involved in a criminal or civil case of interest to this Department, except to members of their immediate family, as defined in City of Berkeley Personnel Rules and Regulations.

Rewards – Gratuities

PR 217 Solicitation – Acceptance. Employees shall not solicit nor accept rewards, presents, gratuities nor compensation other than that paid by the City or as provided for by City Ordinance or Departmental Order, for services performed in the line of duty. Should any reward, gratuity, present or unauthorized compensation come into an employee's possession, it shall be immediately forwarded to the Office of the Chief, accompanied by a written report outlining all circumstances.

PR 218 Solicitation – Special Privileges. Employees shall not use their badge, uniform, identification card nor official position to solicit for themselves or others any special privileges, such as free admission to places of amusement, discounts on purchases, or other favors, except as expressly permitted in the Departmental Orders. Employees may use their badges or other official credentials to obtain admission to any public gathering when such use is in furtherance of official duty. Should admission under these circumstances be refused, employees shall pay the required fee and file a report with their Commanding Officer, outlining the circumstances and requesting reimbursement. Nothing in this regulation shall prohibit uniformed officers of this Department from accepting free transportation on the Bay Area Rapid Transit System as authorized by the BART Board of Directors on January 24, 1974.

PR 219 Witness Fees – Remuneration For. Employees shall not accept anything for appearing in civil court in any matter arising out of their official employment except overtime and expenses from the City of Berkeley.

PR 220 Outside Employment. Employees seeking to engage in employment outside the Department are bound by the provisions of California Government Code Section 1126, City of Berkeley Administrative Regulation Section 2.8, and General Order P-20.

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PR 221 Civil Cases – Misuse of Position. Employees shall not use their positions with the Department as a means of forcing or intimidating persons with whom they are engaged in civil matters to settle the case in favor of the employee.

PR 222 Civil Matters – Serving Papers. Employees shall not serve civil papers except as directed by a Commanding Officer or as provided in General Orders dealing with Domestic Violence, Temporary Restraining Orders and Subpoenas.

Court Appearances

PR 223 Court – Employee's Personal Appearances. Employees subpoenaed to Municipal or Superior Court for matters being heard before a jury shall wear conservative civilian clothes. Male personnel shall wear coat and tie, and female personnel shall appear in correspondingly appropriate attire. For matters being heard without a jury or before the Police Review Commission, employees may wear either a uniform or conservative clothing as described above.

PR 224 Court – Punctuality. Employees required to be in court by Departmental Order or subpoena shall be prompt in attendance and shall remain until excused by competent authority.

Cooperation with Press/Media and Other Agencies

PR 225 Cooperation – Other Public Agencies. Employees shall cooperate with all law enforcement agencies, other City Departments, and public service organizations and shall give aid and information as such organizations may be entitled to receive, consistent with Departmental Orders.

PR 226 Cooperation – Press/Media. Employees shall extend full cooperation to members of the media consistent with Departmental Orders, provided that successful investigation or prosecution of a police case is not thereby jeopardized. Any situation which involves a question of relationship with the media which cannot be satisfactorily resolved by the employee shall be referred to a superior officer.

Department

PR 227 Use of Intoxicants. Except as necessary in the performance of an official assignment, having the odor of an alcoholic beverage on the person, clothing, or breath, being under the influence of alcohol or other intoxicants, or the consumption of alcohol or other intoxicants while on duty is strictly prohibited.

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- (a) A Command Officer must give prior approval for any use of alcohol in the performance of an official assignment.
- (b) Employees may use prescription medications, except medical marijuana, while on duty pursuant to the specific instructions of a physician who has advised the employee that the prescribed medication in the amount actually ingested does not adversely affect the employee's ability to safely perform their duties, including tasks that require physical coordination, mental alertness and sound judgment, such as, operating office equipment and driving a vehicle, or, in the case of sworn officers, making detentions/arrests and handling weapons.

PR 228 Intoxicants – In Uniform. No employee off duty and in uniform, or in any part of uniform dress, shall:

- (a) Consume any alcoholic beverage or other intoxicant in public view or in any place accessible to the public;
- (b) Be in public with the odor of an alcoholic beverage on the person, clothing, or breath; or
- (c) Be under the influence of alcohol or other intoxicants.

PR 229 Intoxicants – Off Duty. No employee off duty shall consume any alcoholic beverage or other intoxicant to an extent which renders one unfit to report for one's next regular tour of duty (including having the odor of an alcoholic beverage on the person), which results in the violation of any law, or which results in the commission an obnoxious or offensive act which might tend to discredit the Department.

PR 230 Smoking – While on Duty. Employees, while on duty, whether in uniform or working in plain clothes, are governed by the Anti-Smoking Ordinance of the City of Berkeley and the dictates of common courtesy.

PR 231 Smoking – City Vehicles. Employees shall not smoke in City vehicles, nor smoke close enough to a City vehicle such that smoke enters the City vehicle.

PR 232 Controversial Discussion. Employees on duty shall not speak slightly of any race, color, religion, ancestry, gender, national origin, age, sex, sexual orientation, marital status, political affiliation, physical disability or medical condition (including cancer and HIV status). No posters, cartoons, or written material of any kind which reflect on a particular race, color, religion, ancestry, national origin, age, sex, sexual orientation, marital status, political affiliation, physical disability or medical condition may be retained or displayed within the Police Department building(s) or vehicles

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assigned to the Department.

- PR 233 Respect Among Employees. Employees shall treat other members of the Department with respect and response due them as fellow employees.
- PR 234 Courtesy. Employees shall at all times be courteous and civil to the public and to one another. They shall be quiet, orderly, attentive and respectful and shall exercise patience and discretion in the performance of their duties.
- PR 235 Acts – Statements - By Employees. Employees shall not perform any acts or say or write anything for publication or otherwise which tend to bring the Department or its administrative officers into disrepute or ridicule; or which destructively criticize the Department or its administrative officers in the performance of their official duties; or which tend to disrupt or impair the performance of official duties and obligations of employees of the Department; or which tend to interfere with or subvert the reasonable supervision or proper discipline of employees of the Department.
- PR 236 Amusement – Places of – Restriction. Employees on duty shall not enter any place of amusement except when necessary in the performance of duty or periodic inspection.
- PR 237 Political Activity. Employees shall not engage in improper political activity; nor shall they engage in political activities or services of any nature during those hours in which they are employed by the Police Department; nor shall they use any City funds, supplies, property, or equipment in performing any services of a political nature.
- PR 238 Organizational Membership. Employees shall not belong to nor participate in the activities of any organization, association, society or other group whose activities or purposes are subversive in nature; or which in any way may adversely influence or control the work or service of such employees in their official capacity.
- PR 239 Labor Unions – Officers – Membership. Officers shall not join or participate in any employee organization except an employee organization which is composed solely of peace officers which concerns itself solely and exclusively with the wages, hours, working conditions, welfare and advancement of academic and vocational training in furtherance of the police profession and which is not subordinate to any other organization.
- PR 240 Public Talks – Conventions. Employees shall secure **approval from his/her Division commander, or on short notice from his/her supervisor**, before attending a conventions or filling speaking engagements as official representatives of the Department.

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- PR 241 Business or Personal Cards. Business or personal cards which refer to the Department shall be used by employees in connection with official business and shall conform to approved forms.
- PR 242 Departmental Keys. Employees shall obtain permission from the Captain of the Support Services Division before duplicating any Departmental key or before lending or furnishing Departmental keys to any person not employed by the Department.
- PR 243 Badge – Police Credentials – Lending Of. Employees shall not use another employee's badge or official police credential without permission of a superior officer; nor shall they knowingly permit any person not appointed in this Department to use a Berkeley Police Department badge or official credential at any time.
- PR 244 Personal Aggrandizement – Advertisement. Employees shall not permit the use of their photographs or names for advertisement purposes; or by testimonial, recommendation, or other means participate in any advertising scheme or enterprise related to or based upon their employment with the Department without the approval of the Chief of Police.
- PR 245 Shopping in Uniform. Employees in uniform shall not shop extensively or carry large quantities of merchandise unless directly connected with their normal police activity or required in the line of duty.

Departmental Records and Files – Restricted Use

- PR 246 Records and Information – Restricted Use Of. Employees shall not divulge to any person not connected with the Department information acquired by their employment, if the information might discredit or imperil the efficiency of the Department unless required by law, Departmental Order, or order of a Commanding Officer. Departmental records and reports and other information officially acquired shall be exhibited only in conformity with Departmental Orders, State and Federal administrative regulations, and statutory law. The only police record immediately available to the public is the arrest register at the Jail public counter.
- PR 247 Use of Criminal Justice Information. Employees authorized by law to receive confidential criminal information shall not furnish such information to any individual(s) not authorized by law to receive the record or information.

Misuse of such information may adversely affect an individual's civil rights and is in violation of the law. Any employee who is responsible for such misuse will be subject to immediate disciplinary action. Violations of this regulation may result in both termination from employment with the City of

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Berkeley and criminal/civil actions.

Duty Requirements – Miscellaneous

- PR 248 Obedience – Laws and Orders. Employees whether on or off duty shall obey the laws of the United States and the State of California; ordinances of the City of Berkeley; Departmental Orders; and lawful orders of courts.
- PR 249 Obedience – Orders of Superior Officers/Supervisors. Employees shall obey the lawful orders of a superior officer or supervisor at all times; this shall include any order relayed from a superior by an employee of the same or lesser rank. Should an order conflict with any order given previously or with any Departmental Order, the employee to whom such order is given shall respectfully call attention to the conflict. If the person giving such order does not change it to eliminate the conflict, the order shall stand and the superior officer or supervisor shall bear the responsibility.
- PR 250 Enforcement of Laws – Impartiality. Employees shall enforce laws in a fair and impartial manner.
- PR 251 Truth – False Reports. Employees shall not make a false report, either oral or written.
- PR 252 Bulletin Boards – Daily Police Bulletin – Posting Information. Employees shall secure permission of a Commanding Officer before placing any material on a Departmental bulletin board, and placing of notices on the Daily Police Bulletin shall be in conformity with Departmental Orders.
- PR 253 Address – Telephone – Change Of. Employees shall report any change in their telephone or address on official forms which shall be forwarded to the Administrative Bureau as soon as possible and in no event later than three days after the change becomes effective.
- PR 254 Duty – Presence. Employees shall be present for duty as scheduled unless absence is authorized by competent authority.
- PR 255 Duty – Reporting For. Unless expressly authorized by a Commanding Officer, employees shall report for duty at the time, place, in the attire and with the equipment specified by Departmental Orders or a superior officer. Inability to do so shall be reported prior to reporting time in accordance with applicable Orders.
- PR 256 Duty – Signing Off. Employees shall sign themselves off duty on the time sheet in person and at the station at the expiration of their tours of duty unless exceptional procedure is authorized by a superior officer or supervisor.

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- PR 257 Duty – Required. Employees on duty shall devote their entire time and energies to the duties and responsibilities of the rank, grade or position to which they are assigned, either permanently, or temporarily, as specified by laws, ordinances, Departmental Orders, and instructions from a superior officer.
- PR 258 Duty – Sleeping On. Employees shall remain awake during the time they are on duty. If unable to do so they shall so report to their superior officer or supervisor who shall determine the proper course of action.
- PR 259 Duty – Refreshments On. Employees shall not leave their place of assignment for coffee or refreshments except with permission of their superior officer or supervisor.
- PR 260 Duty – Communications – Maintenance Of. Employees on duty or when officially on call, shall be directly available by normal communication or shall keep their office, headquarters, supervisor or superior officer informed of the means by which they may be reached when not immediately available.
- PR 261 Off-Duty – Service Requirements. Officers off-duty should perform necessary police services in the City of Berkeley and may perform necessary police services in other jurisdictions whenever they are aware of a serious criminal offense or a present threat to life and when such service can be performed without violating any existing Departmental Order.
- The term "police service" means any official police action taken by a Berkeley Police Officer.
- When off-duty officers do perform a police service in connection with this Regulation, they shall, as soon as practicable, and in any event prior to the conclusion of the shift during which the service was performed, advise an on-duty supervisor so that their names may be entered on the time sheet as working overtime for the period of their involvement in the specific incident which warranted police action. An overtime slip shall also be completed by officers as required.
- When performing a police service as described in this Regulation, officers shall be bound by all existing Departmental Orders and shall be entitled to all employee benefits as though they were regularly assigned to duty. Members of the Berkeley Police Reserve are exempted from this Regulation.
- PR 262 Off-Duty – Response to Emergencies. Employees off duty shall report for duty immediately upon receipt of and in compliance with the directions given them at the time of notification.

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- PR 263 Expense – Departmental – Incurring. Employees shall not knowingly and intentionally incur any unauthorized Departmental expense or liability without approval of a superior officer or supervisor when necessary under emergency conditions.
- PR 264 Citizens – Directing. Employees shall comply whenever possible with requests by citizens for public information. If necessary, they shall direct such persons to the nearest location where information may be obtained.
- PR 265 Citizens – Complaints Of. Employees shall provide appropriate information and service to persons seeking assistance, based upon information communicated to the employee by the person seeking assistance.
- PR 266 Identification to Public. Employees on official business shall identify themselves as Berkeley Police employees or officers. When requested, employees shall promptly state their name, rank and badge number, except when disclosure of identity could compromise safety and/or an investigation (i.e., riot situations, undercover operations, etc.).
- PR 267 Reports – Submission Of. Employees shall submit written reports as required by and in conformity with Departmental Orders or instructions of a superior officer or supervisor. Employees shall complete all reports that are due during each tour of duty unless exceptional procedure has been approved by a supervisor or superior officer. "Reports" include, but are not limited to: the documented accounts of the events to which the employee was assigned the investigation or reporting of; the supplemental reporting of events where the employee assisted during the investigation; those investigations previously assigned to the employee, the progress of which is to be reported on or before a specific date; and those periodic activity logs as may be required.
- PR 268 Property – Personal Use. Employees shall not purchase, convert to their own use, or have any claim in any found, abandoned or recovered property, or property held as evidence.
- PR 269 Monies – Acceptance Of. Employees shall not accept money as bail nor in payment of a fine except as provided in Departmental Orders.
- PR 270 Correspondence – Official Stationery – Use Of. Employees shall not enter into correspondence with any person concerning their official activities except as provided by Departmental Orders; nor shall they use Departmental stationery or forms for any purpose other than the transaction of official business.
- PR 271 Recovery Time Transfer. Recovery time transfer is that system whereby an officer grants earned time off from compensatory time to another officer. Such transfer shall be limited to situations where the recipient of

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the transfer is, by reason of illness or injury, threatened with the loss of earnings due to his or her exhaustion of employment benefits. In no instance will there be a transfer from an officer of one rank to an officer of a higher rank or between sworn and non-sworn employees. All such transfers shall require the approval of the Chief of Police or the Chief's designate.

- PR 272 Community Relations and Crime Prevention. It is the policy of the Berkeley Police Department that all employees share the responsibility of maintaining the Department's community relations and crime prevention objectives. To develop and enhance a good working relationship with the community, it shall be every employee's responsibility to achieve community support and understanding by promoting and maintaining crime prevention and community relations programs.
- PR 273 Nondiscrimination/Equal Employment Opportunity/Harassment. As set forth by City of Berkeley policy, employees shall be fair and equitable in all their relations with other employees and citizens. Harassment on the basis of race, color, religion, ancestry, national origin, age, sex, sexual orientation, marital status, political affiliation, physical disability or medical condition (including cancer and HIV status) shall not be condoned or tolerated; and all employees shall have the responsibility to establish and maintain employment conditions which ensure that no person shall be subject to such harassment.
- PR 274 Contact With IAB/PRC Complainants/Witnesses: Employees involved in an Internal Affairs investigation or Police Review Commission investigation shall not contact complainants or witnesses regarding the complaint. Employees may make contact with complainants or witnesses when necessary in the course of normal police business, conducting investigations or responding to calls for service.

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Ref. PR 254

**EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee of BERKELEY POLICE DEPARTMENT, you may have access to confidential criminal record information which is controlled by statute. Misuse of such information may adversely affect the individual's civil rights and violates the law. Penal Code Sections 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be released. Penal Code Sections 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code Section 6200 prescribes the felony penalties for misuse of public record and CLETS information. Penal Code Sections 11142 and 13303 state:

"Any person authorized by the law to receive a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Any employee who is responsible for such misuse may be subject to immediate disciplinary action, including termination. Violations of this law may also result in criminal and/or civil action.

I have read the above and understand the policy regarding misuse of criminal record information.

(Name - please print)

(Signature)

(Date)