

Firearms

311.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

311.1.1 PERSONNEL AUTHORIZED TO POSSESS FIREARMS WHILE ON-DUTY

- (a) All sworn personnel who have successfully completed a department authorized course of firearms instruction and qualified with the firearm at a department firearms qualification.
- (b) Other police department employees performing the duties of Revenue Protection Guard and after successful completion of the PC 832 course of firearms instruction and qualified with the firearm at a department firearms qualification.

311.2 POLICY

The Bay Area Rapid Transit Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

311.2.1 AUTHORIZATION TO POSSESS FIREARMS BY DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) OFFICERS

Senate Bill 960 (SB 960) amended CA Government Code Section 1031(a) to allow anyone legally authorized to work in the United States under federal law to become a peace officer in California. Under Federal Law, officers hired that qualify under SB 960 may only possess firearms while they are working on-duty as a peace officer.

The ability to possess firearms, including those officers who are in the United States pursuant to DACA, applies not only to Department-issued firearms and ammunition, but also to firearms or ammunition purchased by an officer when the officer purchases the firearm for use in the performance of their official duties or other law enforcement purpose. The firearm shall not be possessed or used for a non-law enforcement purpose.

Pursuant to policy and California law both on-duty and off-duty officers have peace officer authority as to a public offense committed, or for which there is probable cause to believe a crime has been committed in their presence. Express authority, and other considerations regarding the authority to carry a firearm off-duty are addressed in Policy 386 Off-Duty Law Enforcement Actions. Officers hired under SB 960 are not authorized by Federal Law to carry or possess a firearm off-duty. Firearms shall be stored and secured in a manner pursuant to section 312.5 all times when they are not on-duty.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

311.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including but not limited to edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

311.3.1 DUTY HANDGUNS

The authorized departmental issued handgun is the Sig Sauer P320 chambered in 9mm parabellum. The department will issue weapons only to personnel who will carry the Sig Sauer P320 as their primary duty weapon while in uniform and/or plainclothes assignments. Members of the Range Staff may be issued Sig Sauer P320 pistols for training purposes.

Personnel may select and have issued an appropriate sized Sig Sauer grip module to obtain a satisfactory firing grip on the P320 pistol (subject to availability).

a. Duty Handgun Modifications:

Department issued P320 firearms shall not be altered in any way to change its general appearance or function without written Rangemaster approval. A copy of the written approval will be kept in the employees' personnel file. This includes modifications of the grip module, change or modification of the Fire control unit (i.e. Sig Sauer flat/straight triggers), change or addition of sights, slide or any mechanism. All modifications will be at the expense of the requesting officer. Any department firearm returned to the department must be returned in its original configuration.

b. Pistol Mounted Optics (PMO)/Red Dot Sights (RDS)

Pistol mounted optics or slide mounted red dot sights (RDS) are permitted for duty use by members of this department. Any member wishing to carry a handgun with a pistol mounted optic must adhere to the guidelines listed in this policy.

1. Members who desire to carry a pistol mounted optic equipped handgun must attend a department approved red dot sight course or a course taught by a reputable training company as approved by the Range Master prior to attending the course and being able to carry the PMO handgun in a duty capacity.
2. Members who elect to carry a red dot sight pistol on duty will be allowed to utilize cut slides from the manufacturers listed below:
 - • Sig Sauer
 - Others as approved by the Range Master

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

3. Members will be allowed to carry an optic from the approved list below:
 - - Aimpoint Acro P2
 - Holosun 507C X2
 - Holosun 508T X2
 - Holosun 509T X2
 - Leupold Deltapoint Pro
 - Sig Sauer Romeo 1 Pro
 - Steiner MPS
 - Others as approved by the Range Master
4. Members who choose to carry a red dot sight equipped handgun on duty (after February 2023) shall have the optic installed by a Department or qualified Armorer. All pistol mounted optics will be mounted to the specific manufacturers' specifications (i.e. correct inch-pound torque, thread locker, etc.).
5. Red dot sight equipped handguns shall have iron sights that can be aligned through the window of the pistol mounted optic for aiming purposes as a backup sighting system.
6. Red dot sights with multiple reticle options shall only be used in the single dot reticle configuration.
7. Red dot sights equipped with automatic adjustable brightness shall be set to and only be used in manual adjustable brightness modes.
8. Members who choose to carry a red dot equipped handgun on duty shall keep a spare battery of the appropriate size in their direct report location locker.
9. Members who choose to carry a pistol mounted optic equipped handgun which require an adapter plate may choose one from the approved list below:
10. Members assigned to patrol who choose to carry a pistol mounted optic equipped handgun shall use an approved red dot sight holster from the approved list below:
 - - Safariland Duty Optic Ready Level 3 series holsters in black
 - Blackhawk T-Series Level 3 in black
 - Others as approved by the Range Master
11. All costs to equip and carry a duty handgun with a red dot sight will be incurred by the individual employee.

Only department armorers may remove the department issued fire control unit from the grip module and change sights. Any substitution of the grip module must be performed by a Department Armorer.

Any substitution of the grip module or other change to the P320 will require personnel to conduct a test fire of the firearm at a department approved range.

c. Authorized Optional Duty Handguns:

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

1. Personnel may request to carry an optional duty handgun. That request must be made in writing via the department Authorized Optional Firearms Letter. Personnel choosing not to carry the department issued pistol may carry any 9mm caliber pistol approved by the Personnel and Training Deputy Chief. Authorized manufacturers include: Beretta, Glock, Heckler & Koch, Sig Sauer, Smith & Wesson, Colt, Kimber, Springfield Armory, STI/Stacatto 2011, Walther, and others as approved by the Rangemaster. Personnel who were authorized (2018 and prior) to carry an optional duty handgun in a caliber other than 9mm may continue to carry the previously approved optional duty handgun caliber. A copy of the authorization letter will be kept in the employees personnel file.

2. The pistol may be a single-action or double-action/safe-action type, semi-automatic, capable of carrying at least fifteen (15) rounds in its magazine. Personnel may carry a single-action type pistol after successfully completing a single-action pistol training course or equivalent training. The training must be approved by the Rangemaster, prior to attending the course. The trainee must also successfully complete a duty qualification course.

i. Authorized finishes include blue, black, parkerized, nickel or stainless steel.

ii. Personnel primarily assigned to administrative assignments may (subject to availability) be issued an additional Sig P320 pistol but in a compact size. Compact pistol configurations shall be returned to the department when the member concludes service in the administrative assignment.

i. Personnel assigned to administrative non-uniform assignments may also carry an "off-duty" handgun with which they have successfully completed a duty qualification course. The "off-duty" handgun in this capacity must be capable of carrying at least ten (10) rounds of ammunition.

3. Personnel who seek to make modifications to the authorized optional duty handgun must first receive approval from the Rangemaster prior to being allowed to carry it in a duty capacity.

All expenses incurred with regards to the authorized optional duty handgun will be borne by the member choosing to carry the weapon, except for duty ammunition.

Any firearm used during an officer-involved shooting, may be retained as evidence for **at least one year** without compensation to the employee.

311.3.2 SECONDARY (BACK-UP) HANDGUNS

Members of the department who wish to carry a personally-owned secondary handgun, shall ensure safety and compliance with departmental standards and are subject to the following restrictions:

(a) The handgun must be in good working order, listed on the department's approved firearms list and have an authorization letter in writing, on file.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

- (b) Members must provide written notice of the make, model, color, serial number, and caliber of the secondary handgun to the Rangemaster, who will maintain a list of this information.
- (c) The department Rangemaster/Armorer must inspect the handgun before it is carried and will subject it to further inspections as deemed necessary.
- (d) Members must qualify under range supervision before carrying the secondary handgun and continue to qualify according to the department qualification schedule, demonstrating proficiency, safe handling, and proper functionality.
- (e) The handgun must be carried concealed at all times in a manner that prevents unintentional cocking, discharge, or loss of physical control.
- (f) The secondary (back-up) handgun should only be used when the primary handgun is not operating or readily available.

Only one secondary handgun may be carried at any time. The purchase of the handgun is the responsibility of the member. The purchase of ammunition is the responsibility of the member unless 9mm in caliber and provided by the department. Ammunition required for the secondary handgun must be the same as the department issue. If the caliber of the secondary handgun differs, the Chief of Police or an authorized designee must approve the ammunition in writing.

Handguns made by the following manufacturers are approved for off-duty or secondary (back-up) use:

- Beretta, Colt, Glock, Smith & Wesson, Walther, Ruger, Kimber, Browning, H&K, Sig Sauer, Kel-Tec, Kahr, Springfield

Authorized secondary handguns must be of a caliber of .380, .38 special, .357, 9mm, .40, or .45 acp. The handguns must hold a minimum of five rounds of ammunition, and must be a double-action revolver or a semi-automatic pistol.

311.3.3 PATROL RIFLES

The authorized department-issued patrol rifles are the Colt 6920 .223 and Sig Sauer M400 chambered in .223 and/or 5.56 mm. Additionally, officer owned patrol rifles, to include the Daniel Defense and Geissele Super Duty rifles, chambered in .223 and/or 5.56mm are authorized after approval from the Range Master.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle, or in a locked container in the trunk of the patrol vehicle.

311.3.4 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Bay Area Rapid Transit Police Department identification cards under circumstances requiring possession of such identification.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

311.3.5 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

The department authorized handgun ammunition is 9mm Federal Premium HST 147 grain, .40 caliber Federal Premium HST 180 grain and .45 caliber Federal Premium HST 230 grain.

The only authorized ammunition for the 12 gauge shotgun is Federal Premium 00 Buck.

The only authorized ammunition for the AR15 platform is Federal Premium Hi-Shok SP 64 grain, Federal Premium Bonded SP 62 grain, and Black Hills Barnes TSX 62 grain.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

311.3.6 SPECIAL WEAPONS AND TACTICS (SWAT) WEAPONS AND EQUIPMENT

Members assigned to SWAT may modify and utilize firearms, ammunitions, and accessories other than those listed in the previous sections of this policy manual with Team Commander and Department Rangemaster approval. Said weapons, modifications, and accessories may be utilized on patrol as well as in a SWAT capacity.

- SWAT members are allowed to utilize firearms chambered in .308.
 - Said members must successfully complete a semi-annual Department approved SWAT Sniper Qualification Course.
 - The department approved and issued .308 caliber ammunitions are the Ruag Swiss P Styx 167 grain, Tactical 164 grain, and Amour Piercing (AP) 196 grain.
- SWAT members are allowed to utilize weapons of various colors as long as it serves a tactical purpose as approved by the Department Rangemaster.
- Members who have been assigned to SWAT are authorized to utilize variable power optics, night vision devices (including visible and infrared lasers), thermal imaging devices, and suppressors other than the Sig Sauer SRD556.

311.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

311.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Rangemaster.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Rangemaster.

311.4.2 HOLSTERS

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

311.4.3 TACTICAL WEAPON MOUNTED LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Rangemaster. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Personnel may utilize weapon-mounted lights on their duty and off-duty firearms. Weapon-mounted lights are intended to be used for searching, threat assessment, and target acquisition of potentially dangerous persons. Weapon-mounted lights shall not be used as ordinary flashlights for routine lighting purposes.

Authorized brands include Blackhawk, Surefire, Streamlight, and any others approved by the Rangemaster.

Weapon-mounted lights are subject to the following requirements:

- (a) Personnel must demonstrate proficiency with the weapon-mounted light prior to carrying it in an on-duty capacity.
- (b) The weapon shall be carried with the light affixed to it. This will require a holster designed to accommodate the weapon and light combination.
- (c) Personnel equipped with a weapon-mounted light shall also have a handheld light readily available to them at all times while on-duty.

311.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members shall not place or store any firearm, ammunition, or other weapon on department premises, or at any other location, except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

311.5.1 FIREARMS RANGE

The Department utilizes firearms ranges located throughout the Bay Area open to law enforcement use. Range training is held in order to improve and enhance public and officer safety. The annual training shall include marksmanship, weapon manipulation, qualifications, low light operation, mindset, officer safety, use of force, less lethal application, communication, stress inoculation, weapon transitions, active shooter, tactical first aid other tactical topics.

Weapons used during departmental range training may consist of departmental issued and/ or authorized platforms: pistol, rifle, shotgun, LLIMS, and TASER. Targets used at department ranges will be approved by the Rangemaster

Range restrictions depend on the various rules of ranges used and will be determined by the range owner. All officers attending department training shall abide by the four basic firearms safety rules:

- (a) Consider all guns to be loaded unless positively confirmed otherwise.
- (b) Never let the muzzle cover anything you are not prepared to shoot.
- (c) Keep finger off trigger until sights are on the target and you have made a conscious decision to shoot.
- (d) Be sure of your target (positive I.D.) and what is beyond it.

Firearms Safety rules shall be reviewed at all department firearms training by range staff. Staff shall also identify the locations of the trauma and first aid kit with all attendees.

Most types of new factory ammunition for the above weapon platforms are approved for range use. The only exceptions are tracer rounds and armor piercing rounds (unless on SWAT). Caution should also be used when using metal targets. Instructors should ensure proper safety measures

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

have been addressed (i.e. distance, safety glasses for students, target/shooter angle). Minimum range safety equipment shall include eye protection, ear protection, trauma kit, first aid kit, and cell phone for communication with 911.

311.5.2 RANGE STAFF DUTIES

Members of the Range Staff will be assigned to assist the Rangemaster and/or Range Sergeants in conducting the established training program and will report directly to the Rangemaster or Range Sergeant. The range officers, under the direction of the Rangemaster or Range Sergeant, shall have authority to enforce rules and policies established by the Chief of Police.

At the range, the senior firearms instructor shall serve as the range supervisor if no range sergeant is present. It will be the responsibility of the range sergeant/supervisors to ensure range safety protocols are being followed.

All firearms instructors are required to attend basic firearms instructor school. Firearms instructor update training and Tactical Medicine Training is recommended every 5 years. Firearm Instructors may also serve as Department armorers. Armorers are required to re-certify every three years to maintain their armorer status.

311.5.3 INSPECTION AND STORAGE

All Department firearms will be inspected annually by the Rangemaster a qualified armorer, weapons instructor or designee.

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Firearms may be safely stored in lockers at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored.

If a firearm fails any field function test, it will be deemed unsafe and taken out of service. As soon as possible, notification should be made to the Rangemaster. A replacement firearm will be issued and a qualification (if applicable) be conducted as soon as possible. The unsafe firearm(s) will be stored unloaded in a police department safe as to not be re-issued until an inspection by the Rangemaster or designee. The firearm shall not be returned to service until inspected by the Rangemaster or designee.

311.5.4 INVENTORY

An accurate inventory of all department firearms shall be maintained by the Department Rangemaster and quartermaster. The data collection mechanisms include TMS (Training Management System), Armorerlink and Excel.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

311.5.5 ADDITIONAL GUIDELINES FOR STORAGE

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles, or any other area under their custody or control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 17060; Penal Code § 25100; Penal Code § 25105; Penal Code § 25145).

311.5.6 ADDITIONAL GUIDELINES FOR STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 25140; Penal Code § 25452).

If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

311.5.7 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

311.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training semi-annually with their duty firearms. In addition to semi-annually training, all members will qualify at least annually with their duty firearms. Members will qualify with off-duty firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

311.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

311.6.2 FAILURE TO QUALIFY WITH DUTY HANDGUN

Personnel who are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first) shall be reassigned to a non-armed administrative position and prohibited from carrying a firearm off-duty. The Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the on-duty Watch Commander of the failure to qualify. Progressive discipline may be implemented at the level of a Letter of Discussion. The Rangemaster or designee shall arrange for a 4-hour remedial firearms training session as soon as practicable for the non-qualifying personnel

Personnel who are unable to qualify by the conclusion of the first remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty and shall be scheduled to attend a second 4-hour remedial firearms training session. Personnel will progress to the next level in progressive discipline, not less than an oral counseling.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and a third 4-hour remedial firearms training session will be scheduled. Personnel will progress to the next level in the discipline system, not less than a written reprimand.

Personnel that are unable to qualify by the conclusion of the third remedial firearms training session, shall remain assigned to a non-armed administrative position and restricted from carrying a firearm off-duty. Another opportunity to qualify will be scheduled. Personnel will progress to the next level in progressive discipline, not less than a pay-step reduction. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying.

Personnel who are unable to qualify by the conclusion of their fourth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and subject to the next step in progressive discipline, suspension without pay.

Personnel who are unable to qualify by the conclusion of their fifth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and are subject to the fourth level of progressive discipline, demotion, or the final level of discipline, termination.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

311.6.3 FAILURE TO QUALIFY WITH OFF-DUTY HANDGUN

Sworn personnel that fail to annually qualify with their secondary and/or off-duty handguns shall be prohibited from carrying those firearms until they successfully complete the required departmental qualification course.

311.6.4 PATROL RIFLE QUALIFICATION

(applies to Patrol Rifle Operators only, refer to policy 432)

- Day Light and Low Light: annually

311.6.5 FAILURE TO QUALIFY WITH SHOTGUN OR RIFLE

Personnel who fail to attain the minimum passing qualification score with the shotgun or rifle shall be allowed a minimum of one additional opportunity to qualify during that training day. Those personnel that are still unable to qualify may receive additional firearms training that day if training time and a sufficient number of Range Staff are available. In situations involving personnel that are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first), the Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the employee's immediate supervisor or the on-duty Watch Commander of the failure to qualify.

Non-qualifying personnel shall not be authorized to deploy the shotgun or rifle in the performance of their duties until they are able to demonstrate acceptable proficiency and achieve a passing qualification score. Progressive discipline will be implemented at the level of a Letter of Discussion.

The Rangemaster or designee shall arrange for a 4-hour remedial shotgun or rifle training session as soon as practical for the non-qualifying personnel. Personnel that are unable to qualify by the conclusion of the first remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a second 4-hour remedial shotgun or rifle training session will be scheduled. Progressive discipline will be administered in the same manner as described under the Failure to Qualify with Duty Handgun section.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a third 4-hour remedial shotgun or rifle training session will be scheduled. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying. Progressive discipline will move to the next step.

Personnel who are unable to qualify by the conclusion of the third remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties. The employee may, at the discretion of the Chief of Police, progress to the next level in progressive discipline.

311.7 REMEDIAL TRAINING

Any employee who handles a firearm in a grossly unsafe manner, demonstrates dangerous and/or extremely poor decision-making skills in the deployment of and/or application of any use of force-related task, in the field or in training, may be required to attend mandatory remedial training prior to returning to full-duty status.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

If in the opinion of the supervisor/primary trainer at the site of the training, the employee's actions/decision-making is so unsafe that if they were returned to full duty, the employee may be a safety hazard to themselves, fellow employees, and/or the public; the supervisor/primary trainer shall recommend mandatory remedial training for the employee. The primary trainer shall contact the on-duty Watch Commander as soon as practicable and make the recommendation for mandatory remedial training.

If the request for mandatory remedial training is approved, the employee shall be removed from a firearm-carrying capacity and placed into a temporary administrative position until such time as that employee satisfactorily completes the mandatory remedial training.

Repeated failures to correct such deficiencies may result in implementation of progressive discipline.

Nothing in this policy precludes the department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision-making skills, without the employee first being removed from full-duty status.

311.8 FIREARM DISCHARGE

DEFINITIONS

Accidental Discharge: An accidental discharge of a firearm is the unintentional firing of a shot(s) **due to a mechanical failure of any/all safety mechanisms and/or equipment malfunction**. An accidental discharge could not have been prevented by the person handling the firearm.

Negligent Discharge: A negligent discharge is an unintentional firing of a shot(s) **due to a violation of any/all of the four universal firearms safety rules, or other improper weapon handling**. A negligent discharge could have been prevented by the person handling the firearm.

Intentional Discharge: An intentional discharge is the willful and intentional firing of a firearm by the person handling it.

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In the event of an accidental or negligent discharge in which no one is injured, verbal notification shall be made to the on-duty Watch Commander as soon as practical. Additionally, written notification shall be made in accordance with the below matrix:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Bureau Deputy Chief prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written memorandum no later than the end of the next regularly scheduled shift, unless otherwise directed.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

In the event of an accidental or negligent discharge, the firearm in question will be promptly removed from service to be inspected by a department certified armorer. The armorer shall complete a thorough inspection of the firearm and document the inspection on the appropriate inspection form. The inspection form will be forwarded to the Range Master or their designee. If the firearm in question passes the armorer's inspection, it can be returned to a service status. If the firearm fails the armorer's inspection, it shall remain out of service until all repairs can be made, and it passes the armorer's inspection.

Additionally, a Firearm Discharge Review Board will be convened after any accidental or negligent discharge. It will be comprised of no less than three (3) members of the Department's Range/Firearms Staff with at least one (1) member being a current armorer in the weapon system that was discharged. The review board chairperson shall be a Range Master or their designee. The review board should also include at least one person from the involved member's association to ensure proper representation. The Firearms Discharge Review Board will thoroughly review all documents, video footage, and any other material surrounding the discharge to ensure a proper finding is determined. Once a finding is made, it will be presented to the Bureau Deputy Chief. The board will also make a recommendation of a course of action to rectify any issues determined by the review process. Once the appropriate chain of command is made aware of the board's findings, an entry will be made into IAPro by the member's supervisor. If any training is to be conducted as a result of the review, it shall be approved by the Chief of Police and completed by a member(s) of the Range staff as soon as practical.

311.8.1 DANGEROUS ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER® device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

311.8.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Firearms

311.8.3 WARNING AND OTHER SHOTS

Generally, shots fired for the purpose of summoning aid are discouraged and should not be discharged unless the member reasonably believes that they appear necessary, effective, and reasonably safe. Warning shots for the purpose of influencing suspect behavior are prohibited.

311.9 RANGEMASTER DUTIES

The rangemaster falls under the Personnel and Training Division and reports to the Personnel and Training Division Lieutenant.

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Personnel and Training Lieutenant after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Rangemaster has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry. At a minimum, the Rangemaster shall conduct a semiannual inventory of all firearms under the Department's control.

The Rangemaster shall complete and submit to the Personnel and Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Personnel and Training Lieutenant.

311.10 ALCOHOL & DRUGS

Firearms shall not be carried by any personnel who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the employee's senses or judgment.

311.11 RETIREES

The Office of the Chief shall issue honorably retired sworn personnel an identification card with a CCW endorsement, see Policy Manual § 220.