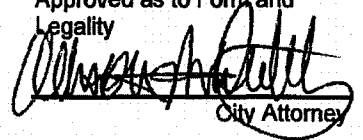


Approved as to Form and
Legality


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 88344 C.M.S.

**RESOLUTION ADOPTING OAKLAND POLICE DEPARTMENT
SPECIAL ORDER 9205, BANNING OF THE CAROTID RESTRAINT AND
ALL FORMS OF ASPHYXIA, AS JOINTLY RECOMMENDED BY THE
OAKLAND POLICE DEPARTMENT AND THE OAKLAND POLICE
COMMISSION**

WHEREAS, the Oakland Police Department (OPD) has a responsibility to serve all the people of Oakland, and to treat all members of the public with respect; and

WHEREAS, the Oakland Police Commission (Commission) was created by the voters of Oakland in 2016 to be the voice of the community in matters of police policy and practice; and

WHEREAS, both the Commission and OPD recognize that the use of authorized force by police officers, acting as agents of the state, is fundamentally an exercise of governance with the consent of the people; and

WHEREAS, both the Commission and OPD recognize that certain custodial encounters may require body-to-body contact between officers and a person; and

WHEREAS, OPD does not authorize nor train officers to utilize "chokeholds," which obstruct a person's ability to breathe; and

WHEREAS, OPD recognizes the public and the Police Commission's call for the immediate end of the use of hogtying, chokeholds, and any holds intended to cause obstruction to a person's airway; and

WHEREAS, OPD bans and otherwise immediately eliminates all holds or other maneuvers which are designed to, or may foreseeably result in, cutting off blood or oxygen to a person's head, despite the fact that the State of California requires that officers be trained to apply some such holds; and

WHEREAS, Article VI, section 604(b)(4) of the Oakland City Charter grants the Commission the authority to make changes to certain policies, procedures, customs or General Orders which pertain to OPD; and

WHEREAS, OPD Special Order 9205 serves as an immediate change to DGO K-03 Use of Force until such time as the new revised DGO K-03 is adopted; and

WHEREAS, on June 25, 2020, the Police Commission established an Ad Hoc Committee to create a revised version of OPD's Special Order 9025 to be submitted to the City Council; and

WHEREAS, on July 9, 2020 the Police Commission voted to approve the Commission's version of Special Order 9205 for submission to City Council; and

WHEREAS, on October 15, 2020 the Police Commission voted to approve a revision to the Commission's version of Special Order 9205 for submission to City Council; and

WHEREAS, the City Council recognizes that OPD consistently needs to balance building community trust in conjunction with the need to address crime; and

WHEREAS, the Commission and OPD recognize that building community trust requires transparency and good judgment in the application of law enforcement tools such as uses of force; now therefore be it

RESOLVED: That, pursuant to City Charter section 604(b)(4), the City Council adopts the Commission's version of Special Order 9205, "Banning of the Carotid Restraint and All Forms of Asphyxia" attached hereto as **Attachment A**.

IN COUNCIL, OAKLAND, CALIFORNIA,

OCT 20 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, ~~REED~~ TAYLOR, THAO AND PRESIDENT KAPLAN — 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reed

ATTEST: ASHA REED For
ASHA REED
Acting City Clerk and Clerk of the Council
of the City of Oakland, California

Approved Police Commission 15 Oct 20

**OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT**

SPECIAL ORDER 9205

TO: Sworn Personnel

SUBJECT: Banning of the Carotid Restraint and All Forms of Asphyxia

DATE: 17 July 2020

TERMINATION: Upon Revision of DGO K-03, *Use of Force*

The use of authorized force by police officers, acting as agents of the state, is fundamentally an exercise of governance with the consent of the people. Recent events have changed the nature of the relationship between the public and the government regarding police use of force, especially surrounding restraints of a person's neck and asphyxiation – the process of being deprived of oxygen or suffocated, potentially resulting in unconsciousness or death. The Oakland Police Department believes this policy will save lives and will also promote officer safety, which furthers OPD's reverence for life.

It is recognized that certain custodial encounters may require body-to-body contact between officers and a person. However, the Oakland Police Department does not authorize nor train officers to utilize "chokeholds," which obstruct a person's ability to breathe. The Department no longer teaches or authorizes officers to utilize the carotid restraint hold, which until recently was required training pursuant to California Peace Officer Standards and Training (POST).

OPD's use of force policies must reflect a reverence for life,¹ require de-escalation,² mandate a duty to intervene,³ limit shooting at moving vehicles,⁴ and require comprehensive force reporting.⁵ OPD recognizes the public and the Police Commission's call for the immediate end of the use of hogtying, chokeholds, and any holds intended to cause obstruction to a person's airway.

OPD bans and otherwise immediately eliminates all holds or other maneuvers which are designed to, or may foreseeably result in, cutting off blood or oxygen to a person's head.

¹ "The Oakland Police Department values the protection and sanctity of human life." *DGO K-03 Use of Force*, I, A.

² "Members are required to de-escalate the force when member reasonably believes a lesser level or no further force is appropriate." "To the extent possible and without ever compromising safety, members are required to use verbal commands to accomplish the police objective before resorting to physical force." *Ibid* at I, C and III, A, respectively

³ "Members shall intervene and prevent or stop the use of unreasonable force by other members." *Ibid* I, C.

⁴ "Whenever possible, members shall move out of the way of the vehicle, instead of discharging his or her firearm at the operator." *Ibid* IV, E, 2, b.

⁵ Reference DGO K-04, *Reporting and Investigating the Use of Force*, and associated Special Orders.

Special Order 9205 serves as an immediate change to DGO K-03 Use of Force until such time as the new revised DGO K-03 is adopted.

POLICY

Effective immediately, OPD eliminates the Carotid Restraint as an authorized force option for OPD officers as banned by Government Code 7286.5 and as amended by AB1196. The Department General Order (DGO) K-03, Use of Force as approved by the Commission on October 8, 2020 prohibits the use of the Carotid Restraint and Chokehold. To be clear, OPD bans all holds or other maneuvers which are designed to, or may foreseeably result in cutting off blood or oxygen to a person's head. Hogtying is also specifically banned. While transitory contact – defined as purposeful body movement from one point to another– between an officer and a person is allowed, officers shall not sit, kneel, or stand on a person's chest, back, stomach, or shoulders, reducing the person's ability to breathe. Officers may make transitory contact with a person's hips, legs, or lower back and beltline as needed to handcuff, control, or secure, a person, such as but not limited to, placing the Officer's full shin across a person's hips, legs, or lower back or beltline. Officers must position a person to allow for free breathing and not put the person face down; to be clear, a prone person shall be placed on their side or in a sitting, kneeling or standing position as soon as practical.

Positional asphyxia occurs when a person's body position prevents the person from breathing adequately. A person can be prevented from breathing adequately when pressure is placed on their neck, shoulders, back, or stomach. In order to ensure the safety and to minimize the risk of positional asphyxia, officers must learn to recognize, evaluate, and mitigate contributing factors and conditions. Officers should not believe that if a person is able to talk, that the person is also able to breathe; if a person says they cannot breathe, the person is likely in distress.

Officers possess an affirmative obligation to ensure compliance, by themselves and others, with all Department policy, including this Special Order.⁶ Officers who observe another officer violating, or about to violate, this Special Order shall, absent extraordinary circumstances, do whatever possible to interrupt the flow of events before the fellow officer does something that makes any official action necessary.

1. A person lying on their stomach in a face-down position may have difficulty of breathing. If feasible, officers should avoid physically forcing a person to a face-down position. Officers should position a person in a manner to allow for free breathing once the person has been controlled and placed under custodial restraint.
2. Any body-to-body contact between officers and a person or officers' placement of weight on a person at all must be transitory. While transitory contact between an officer's body and that of an engaged person is allowed, officers shall not sit, kneel, or stand on a person's chest, back,

⁶ Members witnessing instances of misconduct must also follow the direction given in Department Manual of Rules Section 314.48, *Reporting Violations of Laws, Ordinances, Rules, or Orders*.

stomach, or shoulders, reducing the person's ability to breathe. Officers may make transitory contact with a person's hips, legs, or lower back or beltline as needed to handcuff, control, or secure, a person, such as but not limited to, placing the Officer's full shin across a person's hips, legs, or lower back or beltline. Officers shall be aware of the amount and duration of any weight placed on a person. 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.

3. Officers shall not "pile on" on top of a person. If additional restraint is needed, an additional officer or officers may restrain a person's limbs to restrict their movement. Officers who are attempting to restrain a person who is on the ground should refrain from simply continually telling the person to "stop resisting" exclusively; instead, officers should incorporate other communication strategies such as verbal persuasion, explanation, and a calming tone if feasible.

4. When a person has their breathing restricted, that person may struggle with a greater intensity. What officers perceive as resistance may be an indication that the person is struggling to breathe. Whenever possible, officers must check if any resistance is related to a person's difficulty breathing. 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., and an officer shall immediately have medical response called for a person who says that they cannot breathe or who is exhibiting signs of respiratory distress

5. Once a person is restrained, officers must inquire about that 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 obtain medical evaluation and call for treatment, if needed. 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.

6. At a scene, officers shall continuously monitor the condition of a person being restrained or placed in restraints. Officers shall consider using two or more sets of handcuffs to extend the length of the handcuffs for larger or overweight persons.

7. Officers must be aware of environmental factors, including the nature and temperature of the surface to 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.

By order of

Susan Manheimer
Interim Chief of Police

Date Signed: