



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

**RESOLUTION ADOPTING OAKLAND POLICE DEPARTMENT
SPECIAL ORDER 9205, "BANNING USE OF THE CAROTID
RESTRAINT AND ALL FORMS OF ASPHYXIA" AS RECOMMEND
BY THE OAKLAND POLICE DEPARTMENT**

WHEREAS, The Oakland Police Department (OPD) recognizes the public and the Police Commission's ("Commission") call for the immediate end of the use of the Carotid Restraint and choke holds and any holds intended to cause an obstruction of a person's airway; and

WHEREAS, The State of California State Legislature, recognizing the public outcry to this restraint method, revised Assembly Bill (AB) 1196 (Peace Officers: Use of Force), Section 7286.5 addition to the Government Code; and

WHEREAS, This revision instructs that law enforcement agencies shall not authorize the use of a Carotid Restraint or choke hold by any peace officer employed by that agency; and

WHEREAS, Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified and that an arrest is physically made by the actual restraint of the person or by submission to the custody of the arresting officer; and

WHEREAS, Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance, and existing law requires law enforcement agencies to maintain a policy on the Use of Force (OPD's DGO K-03), as specified; and

WHEREAS, AB 1196 prohibits a law enforcement agency from authorizing the use of a Carotid Restraint or a choke hold, as defined, and imposes a state-mandated local program; and

WHEREAS, Existing law requires the Commission on Peace Officer Standards and Training (POST) to implement courses of instruction for the regular and periodic training of law enforcement officers in the Use of Force; and

WHEREAS, Per the revision of AB 1196, OPD diligently began developing Special Order 9205 that would bring OPD into compliance with state law; and

WHEREAS, OPD developed Special Order 9205 and requested the policy to be placed on the Commission agenda for review and approval on July 9; and

WHEREAS, Article VI, Section 604(b)(4) grants the Commission authority to make changes to policies, procedures, customs or General Orders which govern, among other things, use of force or which contain elements expressly listed in federal court orders or federal court settlements which pertain to the Department; and

WHEREAS, The Commission rejected the Oakland Police Department's Special Order 9205; and

WHEREAS, the Police Commission policy version does not allow an officer to put any pressure on a person, which is not realistic when restraining an actively resistant person; therefore be it

RESOLVED: That the City Council recognizes that building community trust requires transparency and good judgment in the application of law enforcement; and be it

FURTHER RESOLVED: That with the adoption of Special Order 9205, OPD will be compliant with AB 1196, Section 7286.5; and be it

FURTHER RESOLVED: That the adopted Special Order 9205 will be enforced until the final DGO K-03 Use of Force Policy is adopted, and be it

FURTHER RESOLVED: That the City Council adopts OPD’s proposed version of Special Order 9205, “Banning of the Carotid Restraint and all forms of Asphyxia” provided as *Attachment A*.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO
AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

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