



# **OAKLAND POLICE COMMISSION SPECIAL MEETING AGENDA**

**October 15, 2020  
5:30 PM**

**Pursuant to the Governor's Executive Order N-29-20, members of the Police Commission, as well as the Commission's Counsel and Community Police Review Agency staff, will participate via phone/video conference, and no physical teleconference locations are required.**



# OAKLAND POLICE COMMISSION

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### PUBLIC PARTICIPATION

The Oakland Police Commission encourages public participation in the online board meetings. The public may observe and/or participate in this meeting in several ways.

#### **OBSERVE:**

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/83665544906> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled “Joining a Meeting”
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592  
Webinar ID: 836 6554 4906

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting By Phone.”

**PROVIDE PUBLIC COMMENT:** There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

- Comment in advance. To send your comment directly to the Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to [clove@oaklandca.gov](mailto:clove@oaklandca.gov). Please note that e-Comment **submissions close at 4:30 pm**. All submitted public comment will be provided to the Commissioners prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled “Raise Hand In Webinar.”
- By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing STAR-NINE (“\*9”) to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting by Phone.”

If you have any questions about these protocols, please e-mail [clove@oaklandca.gov](mailto:clove@oaklandca.gov).



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

October 15, 2020  
5:30 PM

I. **Call to Order**  
Chair Regina Jackson

II. **Roll Call and Determination of Quorum**  
Chair Regina Jackson

III. **Public Comment on Closed Session Items**

**THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION AND WILL REPORT ON ANY FINAL DECISIONS DURING THE POLICE COMMISSION'S OPEN SESSION MEETING AGENDA.**

IV. **Closed Session**  
CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION - Govt. Code § 54956.9(d)(1)  
Case No: 3:2020-cv-05843

PUBLIC EMPLOYEE APPOINTMENT - Govt. Code § 54957(b)(1)  
Title: Chief of Police

V. **Report out of Closed Session**  
a. The Commission will report on any actions taken during Closed Session, as required by law.

VI. **Welcome, Purpose, and Open Forum** (1 minute per speaker)  
Chair Regina Jackson will welcome public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

VII. **Police Chief Search Update**  
The Police Chief Search Ad Hoc Committee will provide an update on the status of the search for the next Police Chief. ***This was discussed on 3.12.20, 7.23.20, 8.27.20, 9.10.20, and 9.24.20.***  
a. Discussion  
b. Public Comment  
c. Action, if any

- VIII. Revised Special Order (SO) 9205 Banning Carotid Restraint and All Forms of Asphyxia**  
The Commission will discuss and may vote to approve the revised version of SO 9205 that was developed by members of the Ad Hoc Committee and OPD. ***This item was discussed on 6.11.20, 6.25.20, 7.9.20 and 10.8.20. (Attachment 8).***
- a. Discussion
  - b. Public Comment
  - c. Action, if any

**IX. Adjournment**

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: 9 July 2020

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

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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.

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 has continued, however, to teach and authorize officers to utilize the carotid restraint hold, which has until recently been required training pursuant to California Peace Officer Standards and Training (POST).

OPD's use of force policies must reflect a reverence for life,<sup>1</sup> require de-escalation,<sup>2</sup> mandate a duty to intervene,<sup>3</sup> limit shooting at moving vehicles,<sup>4</sup> and require comprehensive force reporting.<sup>5</sup> 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.

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.

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<sup>1</sup> “The Oakland Police Department values the protection and sanctity of human life.” *DGO K-03 Use of Force*, I, A.

<sup>2</sup> “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

<sup>3</sup> “Members shall intervene and prevent or stop the use of unreasonable force by other members.” *Ibid* I, C.

<sup>4</sup> “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.

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

## POLICY

Effective immediately, OPD eliminates the Carotid Restraint as an authorized force option for OPD officers. All references to the use of the Carotid Restraint shall be removed from DGO K-03, Use of Force. 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. Additionally, officers shall not sit on, kneel on, or stand on a person's chest, back, stomach, or shoulders, reducing the person's ability to breathe. 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.

1. A person lying on their stomach in a face-down position may have difficulty of breathing. 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. However, officers shall not sit on, kneel on, or stand on a person's chest, back, stomach, or shoulders, reducing the person's ability to breathe. As soon as possible, officers' weight on a person shall be removed. 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.
4. When a person has their breathing restricted, the person may struggle more. 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.
5. Once officers gain control of a person, officers must inquire about a 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 treatment, if needed. Officers shall share any relevant information on a person's condition, medical condition, what has transpired during their interaction, or any information about drug or alcohol

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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.

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:

~~DRAFT OPD Version 17 Jul 2020~~ ~~7 Oct 20~~ ~~JRT12 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. ~~These changes are welcomed insofar as they will save people's lives. We~~ The Oakland Police Department believes this policy will accomplish that goal 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 ~~has continued, however, no longer to~~ teaches and/or ~~authorizes~~ officers to utilize the carotid restraint hold, which ~~has until recently been~~ was required training pursuant to California Peace Officer Standards and Training (POST).

OPD's use of force policies must reflect a reverence for life,<sup>1</sup> require de-escalation,<sup>2</sup> mandate a duty to intervene,<sup>3</sup> limit shooting at moving vehicles,<sup>4</sup> and require comprehensive force reporting.<sup>5</sup> 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.

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

<sup>2</sup> "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

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

<sup>4</sup> "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.

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



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Special Order 9205

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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. ~~All references to the use of the Carotid Restraint shall be removed from 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, (purposeful body movement from one point to another) contact (e.g. trained defensive tactics techniques) between an officer’s body and that of an engaged person is allowed. ~~Additionally, officers shall not sit, kneel, or stand on a person’s chest, back, stomach, or shoulders, once safely restrained, thereby~~ reducing the person’s ability to breathe. Officers may make apply force in a transitory manner to contact with a a person’s hips, legs, or torso 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 torso 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.

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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.<sup>6</sup> 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

<sup>6</sup> 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.*

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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 a person engaged in a physical struggle 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 apply force in a transitory manner to a 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. While transitory contact between officers and persons during a takedown, arrest, or other similar situation is likely, as soon as possible, officers' weight on a person's chest, back, stomach, or shoulders shall be removed as soon as possible. Officers shall not sit on, kneel on, or stand on a person's chest, back, stomach, or shoulders to hold a person down beyond trained tactics and techniques, and once a person is under control shall transition the person to a recovery position as soon as feasible. Officers may apply force in a transitory manner to a person's hips, legs, or torso 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 torso. 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. Officers shall not sit, kneel, or stand on a person's chest, back, stomach, or shoulders, once safely restrained.

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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 control a person who is on the ground should refrain from simply continually telling the person to "stop resisting" exclusively; instead, officers should use 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 more 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 and a person who says that they cannot breathe or who is exhibiting signs of respiratory distress shall have medical response called for them immediately.

5. Once a person is restrained, officers restrain a person, 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

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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 who are controlling a person on the ground shall have an officer specifically designated to monitor the breathing of the person if at all possible. Officers shall consider using two 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:

DRAFT 12 Oct 20

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

## SPECIAL ORDER 9205

TO: Sworn Personnel

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DATE: 17 July 2020

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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).

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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.<sup>6</sup> 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,

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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 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: