

# Oakland Police Department



## Use of Force Policy Handbook

Effective Date  
1 Aug 07

**Handbook  
Summary of Contents**

<b><u>Publication</u></b>	<b><u>Ref No.</u></b>
<b>DGO K-3, Use of Force .....</b>	<b>1.1</b>
<b>DGO K-4, Investigating and Reporting the Use of Force .....</b>	<b>5.1</b>
<b>DGO K-4.1, Force Review Boards.....</b>	<b>14.1</b>

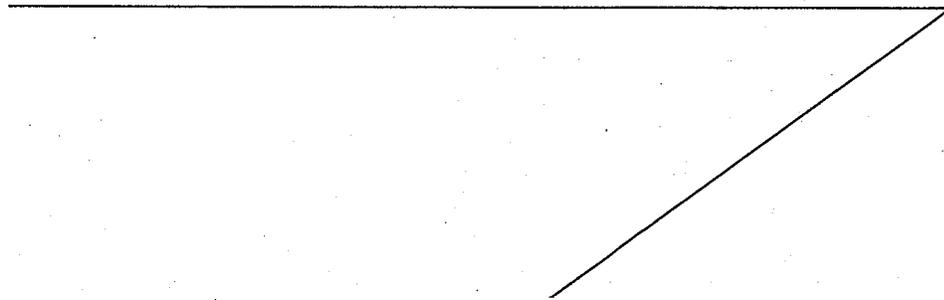
**REVISION RECORD**

The page numbering format has been revised to facilitate updating and tracking revisions to publications contained in this Handbook.

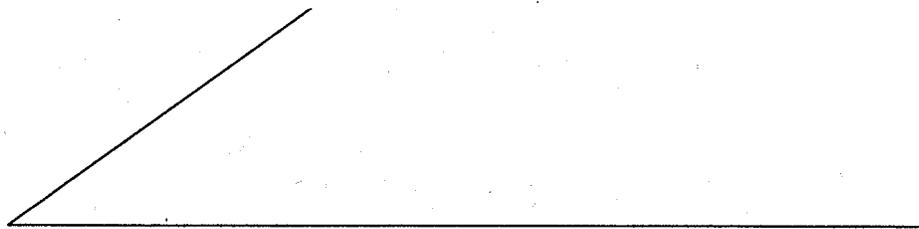
When a minor revision is made to a publication, the 'Revision Number' will be indicated on the Special Order and shall be accompanied by the updated page(s). The 'Revision Date' and 'Reference Page Number(s)' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'.

When it is necessary to make major policy or content revision, the publication shall be rewritten in its entirety. The 'Revision Number' and 'Revision Date' shall be indicated on the new order. The 'Revision Date' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'. The term 'NEW' shall be recorded in the 'Reference Page Number(s)' box to indicate the promulgation of a new order.

Revision Number	Revision Date	Reference Page Number(s)	Revision Number	Revision Date	Reference Page Number(s)
1	1 Aug 07	NEW	16		
2			17		
3			18		
4			19		
5			20		
6			21		
7			22		
8			23		
9			24		
10			25		
11			26		
12			27		
13			28		
14			29		
15			30		



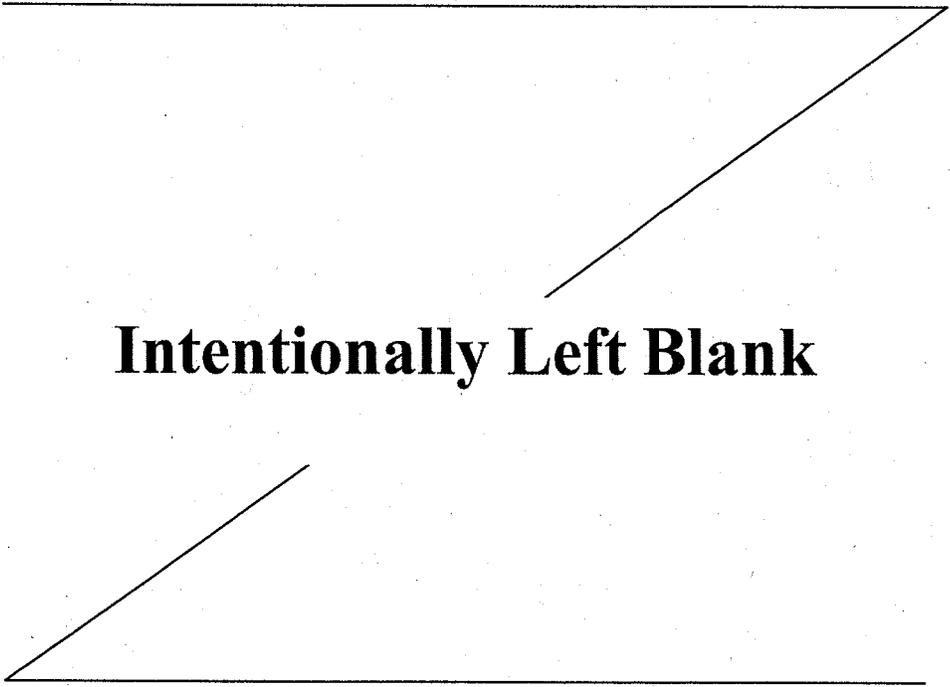
**Intentionally Left Blank**



**DGO K-3  
USE OF FORCE**

**Table of Contents**

<b>I.</b>	<b>DEFINITIONS AND TERMINOLOGY</b> .....	1.1
A.	Employee.....	1.1
B.	Firearm Discharge.....	1.1
C.	Hand Held Impact Weapons.....	1.2
D.	Imminent Threat .....	1.2
E.	Involved Personnel.....	1.3
F.	Less-Lethal Force .....	1.3
G.	Lethal Ammunition.....	1.3
H.	Lethal Force.....	1.3
I.	Medical Treatment.....	1.3
1.	First Aid.....	1.3
2.	Emergency Medical Treatment.....	1.4
3.	Hospital Admittance.....	1.4
J.	Member .....	1.4
K.	Reasonable Force.....	1.4
L.	Serious Bodily Injury.....	1.5
M.	Specialty Impact Munitions.....	1.6
N.	Subject.....	1.6
O.	Use of Force .....	1.6
P.	Verbal Persuasion .....	1.6
Q.	Violent Felony .....	1.6
R.	Weaponless Defense Techniques: .....	1.6
<b>II.</b>	<b>USE OF FORCE POLICY</b> .....	2.1
A.	Lethal Force.....	2.1
B.	Less-Lethal Force .....	2.3
C.	Firearms, Safety Equipment, and Control Devices.....	2.3
D.	Display of Weapons.....	2.3
E.	Providing First Aid or Medical Treatment.....	2.3
<b>III.</b>	<b>FORCE OPTIONS</b> .....	3.1
A.	Lethal Force.....	3.1
B.	Less-Lethal Force .....	3.1
<b>IV.</b>	<b>ADMINISTRATIVE LEAVE</b> .....	4.1
<b>V.</b>	<b>COUNSELING SERVICES</b> .....	4.1
<b>VI.</b>	<b>REFERENCES</b> .....	4.1



**Intentionally Left Blank**



DEPARTMENTAL  
GENERAL  
ORDER

Effective Date  
1 Aug 07

K-3

Index as:

Use of Force Policy

---

## USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for the use of force by Department personnel.

The Oakland Police Department values the protection and sanctity of human life. This policy prohibits personnel from using unreasonable force. It also prohibits personnel from using force as a means of interrogation or punishment. This policy requires personnel to intervene in situations where they reasonably believe, based on the totality of the circumstances, that other personnel are subjecting a person to unreasonable force. This policy is more restrictive than state or federal laws that govern the use of force, and members are required to accomplish the police mission by adhering to this policy.

Personnel who use unreasonable force are subject to discipline for violating Departmental policy. Federal and state laws also provide for civil liability and possible criminal sanctions against personnel who use unreasonable force.

### I. DEFINITIONS AND TERMINOLOGY (Alphabetical Order)

#### A. Employee

The term "employee" includes all non-sworn Oakland Police personnel.

**NOTE:** Although the use of force is primarily intended for members, various employee job classifications include Departmental training in specific force options normally reserved for members. Employees are held to the same standard as members for the application of these authorized force options. All employees shall maintain their right to self-defense by any objectively reasonable means.

#### B. Firearm Discharge

The act of discharging a firearm loaded **with lethal ammunition**. Firearm discharges are classified as follows:

1. **Lethal** – An intentional firearm discharge at a person, regardless of injury.
2. **Discharge at an Animal** – A firearm discharge for the purpose of dispatching an injured or vicious animal.

3. **Unintentional** – A firearm discharge that occurred as a result of an unintentional trigger pull or other unexpected external cause.
4. **Other Firearm Discharges** – No use of force investigation is required for any of the following:
  - a. An intentional discharge while at a range facility;
  - b. A discharge while engaged in a lawful recreational activity, such as hunting or target practice;
  - c. A discharge by Criminalistics Division personnel for the purpose of scientific examination; and
  - d. A discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) to accomplish a tactical police purpose that does not result in injury.

C. Hand Held Impact Weapons

Any object that is used, or designed to be used, to apply force to an individual by coming into physical contact with that individual. Hand Held Impact Weapons include the long baton, short baton, crowd control baton, and expandable baton (Asp®), and may include impromptu weapons.

D. Imminent Threat

“Imminent Threat” refers to an impending threat or resistance that a member or employee reasonably believes will occur, based on the totality of circumstances. Imminent is not limited to “immediate” or “instantaneous.” A person may pose an imminent threat even if that person is not pointing a weapon at the member or employee. A person is an imminent threat if the person is reasonably perceived by a member or employee to have the present **intent, means, opportunity, and ability** to complete the threat, regardless of whether the threatened action has been initiated.

1. **Intent:** The subject’s apparent desire, which can be indicated by words, body language, or actions.
2. **Means:** The instrument, mechanical or physical, that may be used to cause injury.
3. **Opportunity:** The time and/or place which allows the subject to use the means to cause injury.

4. **Ability:** The subject has the capability to carry out the action or threat.

E. Involved Personnel

A member or employee who uses force or directs the use of force. This includes a supervisor or commander who orders the application of force.

F. Less-Lethal Force

Any use of force, other than lethal force, which by design and application is less likely to cause serious bodily injury or death. However, the possibility of an unintended lethal outcome, although very rare, exists. Less-lethal force includes the application of chemical munitions.

G. Lethal Ammunition

Ammunition that is, by design and application, intended to cause serious bodily injury or death.

H. Lethal Force

That force which creates a substantial risk of causing death or serious bodily injury, as such terms are defined by prevailing law.

I. Medical Treatment

1. First Aid

First aid includes, but is not limited to, the mere cleaning of a scrape or cut, applying a bandage, flushing of the eyes with water, or providing an ice pack. First aid may be administered by OPD personnel or a medical professional.

2. Emergency Medical Treatment

Any treatment beyond first-aid, including Cardio-Pulmonary Resuscitation (CPR) and rescue breathing, administered by OPD personnel or a medical professional including the following: physicians, physician assistants, nurses (RN and LVN) paramedics, emergency medical technicians (EMT), Fire Department Personnel.

3. Hospital Admittance

Admittance to a hospital for the treatment of injuries as a result of any use of force.

J. Member

For the purpose of this order, the term "member" includes Oakland Police Officers, Oakland Police Rangers, and Oakland Police Reserve Officers, regardless of rank.

K. Reasonable Force

Force that is objectively reasonable based upon the totality of the circumstances.

The standard used to determine objectively reasonable force is articulated in the United States Supreme Court decision, Graham v. Conner, 490 U.S. 386 (1989). The Graham decision holds that the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, without regard to the officer's underlying intent or motivation. The determination of reasonableness must be based on the totality of circumstances and must include a consideration that police officers are often forced to make split second decisions in circumstances which are tense, uncertain, and rapidly evolving. The determination of reasonableness is not based on the 20/20 vision of hindsight.

Personnel are not required to use the least assertive option and shall consider the following criteria when determining which level of force to use:

1. The objectively reasonable perception of a threat to the member, employee or third party;
2. Imminence of the threat to the member, employee, or third party;

3. Physical differences (e.g., age, size, relative strength, skill level, injuries, exhaustion, number of members/employees verses subjects);
4. Influence of drugs or alcohol on the subject;
5. Proximity of weapons to the subject;
6. Availability of other options;
7. Seriousness of the suspected offense(s);
8. Training and experience level of the member or employee;
9. Potential for injury to member, employee, third party, or the subject;
10. Risk of escape; and
11. Other exigent circumstances.

L. Serious Bodily Injury<sup>1</sup>

A serious impairment of physical condition, such as:

1. Loss of consciousness;
2. Concussion;
3. Bone fracture;
4. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis); or
5. Wound requiring extensive suturing.

---

<sup>1</sup> As defined by prevailing law.

M. Specialty Impact Munitions

Intermediate or long range less-lethal force options which may be hand-delivered or propelled from specialized launching devices or firearms, which by design and application are intended to immobilize, incapacitate, or stun a human being without causing serious bodily injury or death.

N. Subject

The singular term "subject" is used, but it is understood that "subject" can refer to a single person, multiple individuals, or a crowd.

O. Use of Force

Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain, or overcome the resistance of an individual.

P. Verbal Persuasion

A technique to control a subject's action or behavior with words.

Q. Violent Felony

Any felony which involves:

1. The use of lethal force;
2. Force which creates a substantial risk of death or serious bodily injury; or
3. The threatened use of lethal force coupled with the apparent ability to complete the threat.

R. Weaponless Defense Techniques:

A series of techniques an officer performs using body movement and strength to defend against or control a resisting subject.

## II. USE OF FORCE POLICY

Departmental policy requires personnel to use only a force option that is objectively reasonable based on the totality of circumstances confronting them.

### A. Lethal Force

1. Lethal Force is authorized to defend the member or a third person from what the member reasonably believes is an imminent threat of lethal force or force likely to cause serious bodily injury; **OR**
2. To apprehend or arrest a person whom the member reasonably believes has committed or is committing a violent felony which involves the use, or threatened use coupled with the apparent ability to carry out the use of lethal force or force likely to cause serious bodily injury; **AND**
  - a. The person indicates by his or her conduct or by any other means that he or she presents an imminent danger of death or serious bodily injury to the member or a third person if not immediately apprehended, **AND**
  - b. All other reasonably available means of apprehending the person have failed, are inadequate, or are immediately unavailable.
3. In life-threatening situation, the use of an impromptu weapon or any weapon of necessity is justified as lethal force when reasonable alternatives have been exhausted, are unavailable, or are impractical.
4. Whenever possible, a verbal warning to submit to police authority shall be given prior to using lethal force and only if to do so would not increase the danger to the member or others.
5. The use of lethal force against the occupant of a motor vehicle is only authorized when it is reasonably necessary to :
  - a. Defend the member or another person against the vehicle occupant's imminent threat of death or serious bodily injury, by means other than the vehicle; **OR**

- b. Defend the member or another person against the vehicle operator's use of the vehicle to cause death or serious bodily injury and the member or other person has no reasonable avenue of protection or escape.
    - 1) Members shall be prohibited from positioning themselves in a location vulnerable to vehicular attack;
    - 2) Whenever possible, members shall move out of the way of the vehicle, instead of discharging his or her firearm at the operator;
    - 3) Members shall not discharge a firearm at the operator of the vehicle when the vehicle has passed and is attempting to escape.
  - c. Members must consider whether the threat to the member or other persons is increased by incapacitating the operator with lethal force, considering that if the operator is incapacitated, the vehicle may still be a threat to anyone in the vehicle's path. This threat must be weighed against the threat posed by the suspect continuing in control of the vehicle.
6. Firearms shall not be discharged under the following circumstances:
    - a. As a warning;
    - b. At a moving vehicle except as defined in Part II, A, 5, of this order; or
    - c. From a moving vehicle.
  7. Lethal force is prohibited when its sole purpose is to prevent a subject from escaping **and** the subject does not present an imminent danger of death or serious bodily injury.

B. Less-Lethal Force

Personnel may use less-lethal force when that force is objectively reasonable to:

1. Make a lawful detention or an arrest;
2. Overcome the use or threatened use of physical force directed against any person; or
3. Prevent a subject from escaping custody.

**NOTE:** The Department places additional restrictions on the use of less-lethal force during incidents involving Crowd Control and Crowd Management as outlined in TB III-G, OPD CROWD CONTROL AND CROWD MANAGEMENT POLICY.

C. Firearms, Safety Equipment, and Control Devices

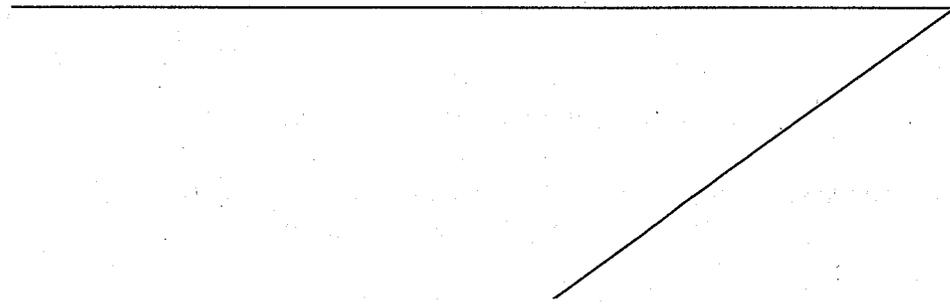
While on duty, personnel shall only carry firearms, safety equipment and control devices that have been specifically approved in Departmental General Order C-4, SAFETY EQUIPMENT or by Special Order, and have successfully completed training.

D. Display of Weapons

Members and employees shall not display any weapon in a threatening or intimidating fashion unless it is objectively reasonable to accomplish a lawful police objective.

E. Providing First Aid or Medical Treatment

Members shall ensure that when necessary, or upon complaint of injury, medical first aid is provided and/or professional medical assistance is summoned as soon as practical for any subject upon whom force has been used.



**Intentionally Left Blank**



### III. FORCE OPTIONS

Personnel shall use a force option that is objectively reasonable to overcome the resistance of the subject, to meet the threat posed by the subject, and to gain control of the situation. Consistent with the law, this policy requires that the force option used is reasonably objective and not that the least assertive option be used. What is objectively reasonable under the totality of the circumstances of each case determines the appropriate force option.

Personnel shall de-escalate force to a lesser level when the officer reasonably believes the lesser level of force becomes appropriate.

#### A. Lethal Force

1. Discharge of a firearm with lethal ammunition.
2. Any force which creates a substantial risk of causing death or serious bodily injury, to include:
  - a. Carotid restraint; and
  - b. Intentional impact weapon strike to the head.

#### B. Less-Lethal Force

Additional information on the specific use and application for less-lethal force options are found in individual Departmental publications specified in Part VI, REFERENCES.

1. Police Patrol Canine;
2. Impact Weapons (other than intentional strikes to the head);
  - a. Long baton;
  - b. Short baton;
  - c. Crowd control baton;
  - d. Asp®;
  - e. Specialty impact munitions (Flexible baton); and
  - f. Any other object used as an impact weapon;
3. Taser®;

4. Weaponless Defense Techniques:
  - a. Personal weapons:
    - 1) Hand/palm/elbow strikes; and
    - 2) Kicks;
  - b. Take-downs:
    - 1) Takedown from the rear;
    - 2) Leg sweep; and
    - 3) Arm-bar takedown.
  - c. Control holds:
    - 1) Escort (elbow);
    - 2) Bent wrist;
    - 3) Twist lock; and
    - 4) Arm-bar hammerlock;
5. Oleoresin Capsicum or other chemical agent;
6. Intentionally pointing a firearm at a person;
7. Handcuffing;
8. Verbal persuasion; and
9. Officer presence.

---

**Intentionally Left Blank**

---

#### **IV. ADMINISTRATIVE LEAVE**

Any personnel involved in a lethal use of force shall be placed on paid administrative leave for a period of not less than three (3) days, unless otherwise directed by the Chief of Police. The Incident Commander may recommend other personnel to be placed on paid administrative leave to the Chief of Police. The assignment to administrative leave shall not be interpreted to imply or indicate the member acted improperly. While on administrative leave, members shall remain available at all times for official Departmental business, including interviews and statements regarding the incident.

#### **V. COUNSELING SERVICES**

In all incidents where a person is seriously injured or killed as a result of a member's use of force; the involved member shall attend employee assistance and counseling services provided by the City prior to his/her return to normal duties. Command officers shall ensure involved members are advised of the services available and shall direct their attendance. As needed, members and employees who witness such incidents may also be referred to counseling services.

#### **VI. REFERENCES**

- A. DGO C-4, SAFETY EQUIPMENT;
- B. DGO K-9, DEPARTMENT CANINE PROGRAM;
- C. TB III-H, SPECIALTY IMPACT MUNITIONS;
- D. TB III-H.1, USE OF THE TASER®;
- E. TB III-H.2, HAND-HELD IMPACT WEAPONS;
- F. TB III-I.1, WEAPONLESS DEFENSE;
- G. TB III-X, LETHAL FORCE AND VEHICLES;
- H. TB V-F.2, CHEMICAL AGENTS; and
- I. TB V-G, USE OF POLICE CANINES.

By Order of

Wayne G. Tucker  
Chief of Police

Date Signed: \_\_\_\_\_

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER NO. 8970

TO: All Personnel

SUBJECT: Use of Electronic Weapons on Restrained Persons and Referrals  
of Electronic Weapons Incidents to the Force Review Board

EFFECTIVE DATE: 10 Dec 08

TERMINATION: Upon Revision of Departmental General Order K-3, USE OF  
FORCE (Rev. 1 Aug 07);

Departmental General Order K-4, REPORTING AND  
INVESTIGATING THE USE OF FORCE (Rev. 1 Aug 07);

Department General Order K-4.1, FORCE REVIEW BOARDS  
(Rev. 1 Aug 07); AND

Training Bulletin III-H.1, TASER (Rev. 26 Jul 08)

---

The purpose of this Special Order is to globally change all references in DGO K-3, K-4, and Training Bulletin III-H.1 from TASER© to electronic weapon and mandate a supervisor/commander investigating an electronic weapon activation on a restrained person to raise the use of force investigative level from a Level 3 to a Level 2.

Additionally, any incident involving multiple activations of an electronic weapon may be referred to the Force Review Board by the Force Review Board Chairperson or the Electronic Weapons Coordinator.

Effective immediately, DGO K-3, Part III, B, 3 shall read as follows:

3. Electronic Weapon (formerly known as TASER©);

Effective immediately, the following sections of DGO K-4 shall read as follows:

New Part II, B, 7:

7. Any electronic weapon activation on a restrained person shall be raised from a Level 3 to a Level 2 force investigation.

Part II, C, 2:

2. The use of an electronic weapon, except on restrained persons, involving any of the following circumstances:

Part V, B, 5, a:

- a. An electronic weapon is fired at an unrestrained person, but misses;

Effective immediately, DGO K-4.1, Part I shall read as follows:

Force Review Boards are convened to evaluate force investigations, in-custody death, or vehicle pursuit-related death investigations, and any related administrative or criminal investigation. The Board shall determine whether the force used was in compliance with Departmental policies and procedures and will identify any policy revision, training, tactical or other issues related to the use of force. Any incident involving multiple activations of an electronic weapon may be referred to the Force Review Board by the Force Review Board Chairperson or the Electronic Weapons Coordinator. The Chief of Police may direct a Board to review any use of force incident.

By order of

Wayne G. Tucker  
Chief of Police

Date Signed: \_\_\_\_\_

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER NO. 9051

TO: All Personnel  
SUBJECT: Revision to Departmental General Order K-3,  
USE OF FORCE (Rev. 1 Aug 07)  
EFFECTIVE DATE: 20 Oct 10  
TERMINATION: Upon Revision of Departmental General Order K-3

---

The purpose of this Special Order is to revise Department policy and procedure for the use of force based on a ruling by the U.S. Supreme Court regarding an imminent versus immediate threat.

Effective immediately, DGO K-3, USE OF FORCE, Part I, D regarding "Imminent Threat" is deleted and the new terminology "Immediate Threat" is added to read as follows:

I. D. Immediate Threat

"Immediate Threat" is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat of death or serious bodily injury if not apprehended without delay. A person is an immediate threat if the person is reasonably perceived by a member or employee to have the present intent, means, opportunity, and ability to complete the threat, regardless of whether the threatened action has been initiated.

1. **Intent:** The subject's apparent desire, which can be indicated by words, body language, or actions.
2. **Means:** The instrument, mechanical or physical, that may be used to cause injury.
3. **Opportunity:** The time and/or place which allows the subject to use the means to cause injury.
4. **Ability:** The subject has the capability to carry out the action or threat.

OAKLAND POLICE DEPARTMENT  
Special Order 9051

Effective Date:  
20 Oct 10

Additionally, the term "Imminent Threat" shall be replaced with the term "Immediate Threat" in the following passages:

- Part II, A;
- Part II, A, 2, a;
- Part II, A, 5, a; and
- Part II, A, 7.

By order of

Anthony W. Batts  
Chief of Police

Date Signed: \_\_\_\_\_