



CITY OF OAKLAND

MEMORANDUM

DATE: January 11, 2023
TO: City Council and Members of the Public
FROM: Council President Nikki Fortunato Bas, District 2
SUBJECT: Resolution Directing The Oakland Police Commission To Propose Changes To Three Oakland Police Department Policies Regarding The Use Of Military Equipment

Dear City Council Colleagues, Oakland Police Commission Members, and Members of the Public,

I respectfully request that the Council discuss and adopt: **RESOLUTION DIRECTING THE OAKLAND POLICE COMMISSION TO PROPOSE CHANGES TO THE FOLLOWING OAKLAND POLICE DEPARTMENT POLICIES: 1) DEPARTMENTAL GENERAL ORDER K-7 ON MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY; 2) DEPARTMENTAL GENERAL ORDER K-6 ON DEPARTMENT RIFLES; 3) DEPARTMENTAL GENERAL ORDER I-26 ON ROBOTS (REMOTE CONTROLLED GROUND SYSTEMS) FOR SUBMISSION TO THE CITY COUNCIL PURSUANT TO SECTION 604(B)(4) OF THE OAKLAND CITY CHARTER.**

This resolution is a policy alternative to Item #7 on the January 17, 2023 Council agenda: Ordinance Approving Controlled Equipment Use Policies For The Oakland Police Department To Acquire And Use The Following Types Of “Militarized” Equipment In Conformance With Government Code Section 7070 And Oakland Municipal Code Chapter 9.65: (1) Departmental Rifles; (2) Chemical Agents; (3) Unmanned Aerial Systems; (4) Noise-Flash Diversion Devices (Flash Bangs); (5) Riot Helmets; (6) Specialty Impact Munitions; (7) Armored Vehicles; (8) Chemical Agents; And (9) Remote Controlled Ground Systems (Robots) And Pole Cameras.

This memo provides information on the process my office has engaged in to develop the below proposed amendments, which I would like the Police Commission to consider.

Proposed Amendments:

1. Departmental General Order K-7 On Military Equipment Funding, Acquisition, And Use Policy
 - a. Amend H: Coordination With Other Jurisdictions
 - i. **Replace:** “Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the category for the military equipment is approved for use in accordance with this policy.”
 - ii. **With:** “Members of outside agencies in Oakland during a mutual aid deployment shall be briefed on this policy before participating in any mutual aid activity managed by OPD. Mutual aid shall not be utilized for the purpose of bypassing any listed prohibition, rule or procedure outlined in this Training Bulletin.”

2. Departmental General Order K-6 On Department Rifles;
 - a. [pg 12 of 17] Amend XI: PROHIBITED USES
 - i. **Add a new Section XI(F):** “Rifles shall not be deployed for recruitment, public relations, or promotional activities.”
 - ii. **Add a new Section XI(G):** “Rifles shall not be deployed for crowd control purposes.”
 - b. [pg 9 of 17] Amend IX: AUTHORIZED DEPLOYMENT
 - i. **Add a new Section IX(B)4:** “Commanders shall make every effort to avoid the deployment of patrol rifles in the presence of minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people (as defined in DGO K-03).”
3. 3) Departmental General Order I-26 On Robots (Remote Controlled Ground Systems)
 - a. [pg 5 of 10] Amend III(A)(5)(c): GENERAL GUIDELINES / Authorized Use / Detachable Tools
 - i. **Strike Sections (ii), (iii), and (iv)**
 - ii. **Add a new Section III(A)(5)(c)(ii):** “Use of the detachable OC canister is prohibited as described below in III. B. Prohibited Use.”
 - b. [pg 7 of 10] Amend III(B): GENERAL GUIDELINES / Prohibited Use
 - i. **Add a new Section III(B)(7):** “Robots and their attachments shall not be deployed as a use of force on a person.”

Background

At the November 1, 2022 Oakland City Council Meeting, the Oakland City Council was scheduled to consider an item submitted for consideration by the Oakland Police Department. This agenda item was scheduled directly to the Council, bypassing Public Safety Committee, titled [#9 Approve OPD's Policies In Accordance With California Government Code § 7070 Et Seq. \(AKA “AB 481”\) And OMC Chapter 9.6.](#)

Prior to the meeting, our office as well as other Councilmembers received requests to meet and speak with community members regarding concerns they had on the policy. During the meeting on November 1, 2022, the public and members of the Council raised concerns as well as proposed amendments to the policies.

The item was withdrawn and rescheduled to the December 6, 2022 meeting of the Council to allow time to further understand the concerns raised. The Council’s intention was to allow for the Oakland Police Commission to review amendments proposed, and come back to the Council with an assessment of whether it would be willing to consider and advance the proposed changes.

The Police Commission delegated to its [Militarized Equipment Ad Hoc Committee](#) the task of responding to the Oakland City Council. The Ad Hoc Committee met twice since the November 1, 2022 meeting and a letter was drafted and sent to the City Council dated November 30, 2022. In the letter, the Commission confirmed that the Militarized Equipment Ad Hoc Committee’s original report to the full Commission properly reflected prior consideration of the substantive areas raised by the public and therefore proceeded with its recommendations to the Council, with

the only exception being the need for a written definition of “high-risk search warrant”, which OPD said it would present to the Commission for consideration in 2023.

During the [December 6, 2022](#) Council meeting, through discussion, the item was continued to the December 20, 2022 Council meeting. Subsequently, at the Rules and Legislation Committee on December 15, 2022 the item was scheduled for the January 17, 2023 meeting of the City Council.

My office has continued to engage in conversations and work with the City Attorney’s Office, the Oakland Police Commission, and the Oakland Police Department to come to a shared understanding of the goals of our proposed changes and feel confident we can move forward together.

I’d like to thank our City Attorney’s Office, Oakland Police Commission, Oakland Police Department and American Friends Service Committee as well as community stakeholders who have worked with us on advancing these changes.

Respectfully Submitted,



Nikki Fortunato Bas
Council President, District 2