

## ATTACHMENT G

Oakland Police Department  
Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

Applicable Use Policy: TB V F.2, Chemical Agents, TB III-G, Crowd Control



### **Description and Purpose**

<b>Defense Technology Riot Control 1082</b>	
<b>Description</b>	Hand thrown burning CS canister
<b>Manufacturer's Product Description</b>	The Riot Control CS Grenade is designed specifically for outdoor use in crowd control situations with a high volume continuous burn that expels its payload in approximately 20-40 seconds through four gas ports located on the top of the canister. This grenade can be used to conceal tactical movement or to route a crowd. The volume of smoke and agent is vast and obtrusive. This launchable grenade is 6.0 in. by 2.35 in. and holds approximately 2.7 oz. of active agent.
<b>Capabilities / How the item works</b>	Fuse assembly ignites interior smoke pellet/CS mixture. CS gas then expels through ports of the canister. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	100
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds. In conjunction with fire deterrent equipment, this munition is also used during tactical team call outs in order to dislodge violent barricaded suspects resisting apprehension. The munition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology Triple Chaser 1026</b>	
<b>Description</b>	Hand thrown burning CS canister

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

<b>Manufacturer's Product Description</b>	The Triple-Chaser® CS consists of three separate canisters pressed together with separating charges between each. When deployed, the canisters separate and land approximately 20 feet apart allowing increased area coverage in a short period of time. This grenade can be hand thrown or launched from a fired delivery system. The grenade is 6.5 in. by 2.7 in. and holds an approximately 3.2 oz. of active agent payload. It has an approximate burn time of 20-30 seconds.
<b>Capabilities / How the item works</b>	See Manufacturer's description. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	300
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds. The munition separates into three smaller canisters, each creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Combined Tactical Systems Triple Phaser 5231</b>	
<b>Description</b>	Hand thrown burning CS canister
<b>Manufacturer's Product Description</b>	Type* Irritant & Smoke Pyrotechnic Grenades, Diameter 2.60" (66 mm) Length 6.20" (157 mm) , Fuse Type Model 201, Fuse Delay 1.5 +/- 0.3 sec. Average , Launchable Yes, Overall Weight 610 gm, Discharge Time 25-45 Seconds , Emission Ports 15
<b>Capabilities / How the item works</b>	This munition functions the same as the Defense Technology CS Triple Chaser. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	30
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds. The munition separates into three smaller canisters, each creates a cloud of smoke laden with CS

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology CS Han-Ball 1093</b>	
<b>Description</b>	Hand thrown burning CS rubber ball
<b>Manufacturer's Product Description</b>	The Han-Ball™ CS Grenade is an outdoor use grenade expelling its payload in approximately 15-20 seconds. The rubber ball round has an overall size of 4.8 in. tall, including the fuse head, and 3.1 in. diameter. This launchable grenade holds approximately 1.6 oz. of active agent which is expelled through three ports around the equator of the ball. Due the intense heat generated by this grenade, it should not be used inside a building or near flammable material.
<b>Capabilities / How the item works</b>	Fuse assembly ignites interior smoke pellet/CS mixture. CS gas then expels through side ports of the ball. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	150
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds. The munition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology CS Blast 1097</b>	
<b>Description</b>	Hand thrown rubber ball with CS Blast dispersion
<b>Manufacturer's Product Description</b>	The Rubber Ball CS Blast Grenade is a maximum effect device that delivers three stimuli for psychological and physiological effects: light, sound and CS. The Rubber Ball CS Blast is most widely used as a crowd management tool by Law Enforcement and Corrections. The Rubber Ball CS Blast has an initial 1.5 second delay that initiates fuse assembly separation, followed by another

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

	.5 second delay. The Rubber Ball CS Blast Grenade combines loud report and flash with effects of chemical agents.
<b>Capabilities / How the item works</b>	Fuse assembly initiates a separating charge that separates fuse from the ball. Flash powder inside the ball then ignites causing the rubber ball to burst which creates a noise, light effect, as well as dispersal of CS powder. Capable of disrupting violent actions as well as brief application of CS powder.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	100
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards safe area in proximity to violent offenders, in order to stop violent behaviors and disperse violent crowds. The rubber ball container typically breaks apart in two halves and creates a noise and light signature coupled with dispersion of CS powder, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Combined Tactical Systems 9430 Tear Ball CS</b>	
<b>Description</b>	Hand thrown rubber ball with CS Blast dispersion
<b>Manufacturer's Product Description</b>	<b>9430</b> – Tear Ball Grenades are explosive “rubber-ball” style grenades that upon initiation eject a powder payload of CS, CN, OC or talc into a radius surrounding the device. Tear Balls are primarily used for crowd control in indoor and outdoor situations..
<b>Capabilities / How the item works</b>	Fuse assembly initiates a separating charge that separates fuse from the ball. Flash powder inside the ball then ignites causing the rubber ball to burst which creates a noise, light effect, as well as dispersal of CS powder. Works the same as Defense Technology CS Blast 1097. Capable of disrupting violent actions as well as brief application of CS powder.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	100
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards safe area in proximity to violent offenders, in order to stop violent behaviors and disperse violent crowds. The rubber ball container typically breaks apart in two halves and

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

	creates a noise and light signature coupled with dispersion of CS powder, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing
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<b>Defense Technology Stinger 1087</b>	
<b>Description</b>	Hand thrown rubber ball with rubber pellet and CS Blast dispersion
<b>Manufacturer's Product Description</b>	The Stinger® Grenade with safety clip is a maximum effect device that delivers three stimuli for psychological and physiological effects: rubber pellets, light and sound. The Stinger® Grenade is most widely used as a crowd management tool.
<b>Capabilities / How the item works</b>	Fuse assembly initiates a separating charge that separates fuse from the ball. Flash powder inside the ball then ignites causing the rubber ball to burst which creates a noise, light effect, as well as dispersal of CS powder and rubber pellets. Capable of disrupting violent actions as well as brief application of CS powder.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	10
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used as intermediate force option during tactical incidents, directed towards safe area in proximity to violent offenders, in order to stop violent behaviors/gain compliance, and area denial, through psychological effect. The rubber ball container typically breaks apart in two halves and creates a noise and light signature coupled with dispersion of rubber pellets and dispersion of CS powder, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology Flameless Tri-Chamber 1032</b>	
<b>Description</b>	Hand thrown burning CS canister
<b>Manufacturer's Product Description</b>	The design of the Tri-Chamber Flameless CS Grenade allows the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. The grenade is designed primarily for indoor tactical situations to detect and/or dislodge a

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

	barricaded subject. This grenade will deliver approximately .70 oz. of agent during its 20-25 seconds burn time. The Tri-Chamber Flameless Grenade can be used in crowd control as well as tactical deployment situations by Law Enforcement and Corrections, but was designed with the barricade situation in mind. Its applications in tactical situations are primarily to detect and/or dislodge barricaded subjects. The purpose of the Tri-Chamber Flameless Grenade is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The Tri-Chamber Flameless Grenade provides the option of delivering a pyrotechnic chemical device indoors, maximizing the chemicals' effectiveness via heat and vaporization, while minimizing or negating the chance of fire to the structure.
<b>Capabilities / How the item works</b>	Smaller canister housed within outer canister, reduces thermal energy to exterior can, minimizing potential for fire. Fuse assembly ignites interior canister smoke pellet/CS mixture. CS gas then expels through ports of the inner canister, then out through ports of outer canister. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	15
<b>Purpose and intended uses and/or effects</b>	This munition is primary used during tactical team call outs in order to dislodge violent barricaded suspects resisting apprehension. The munition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Combined Tactical Systems Baffled 5230B</b>	
<b>Description</b>	Hand thrown burning CS canister
<b>Manufacturer's Product Description</b>	Pyrotechnic grenade designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire.
<b>Capabilities / How the item works</b>	Smaller canister housed within outer canister, reduces thermal energy to exterior can, minimizing potential for fire. Fuse assembly

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

	ignites interior canister smoke pellet/CS mixture. CS gas then expels through ports of the inner canister, then out through ports of outer canister. Functions the same as Def Tech Flameless Tri-Chamber 1032. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	50
<b>Purpose and intended uses and/or effects</b>	This munition is primary used during tactical team call outs in order to dislodge violent barricaded suspects resisting apprehension. The munition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology Pocket Tactical CS 1016</b>	
<b>Description</b>	Hand thrown burning CS canister
<b>Manufacturer's Product Description</b>	The Pocket Tactical CS Grenade is small, and lightweight. The 0.9 oz. of active agent will burn approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. This is a launchable grenade; however it is normally used as a signaling or covering device. Though this device is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full size tactical grenade.
<b>Capabilities / How the item works</b>	Fuse assembly ignites interior smoke pellet/CS mixture. CS gas then expels through ports of the canister. Capable of causing a mixture of CS and smoke to use with outdoor or indoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	100
<b>Purpose and intended uses and/or effects</b>	In conjunction with fire deterrent equipment, this munition is used during tactical team call outs in order to dislodge violent barricaded suspects resisting apprehension. The munition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

<b>Defense Technology SKAT Shell CS 6172</b>	
<b>Description</b>	40mm launched CS, separates into 4 submunitions that expels burning CS
<b>Manufacturer's Product Description</b>	<ul style="list-style-type: none"><li>• Launchable 40mm</li><li>• Burning CS / Outdoor, Risk of fire</li><li>• Max range 80-100 yards</li><li>• Discharge time 20-30 seconds</li><li>• 0.90 oz active agent</li></ul> 4 separate sub-munitions (40mm- 4)
<b>Capabilities / How the item works</b>	The munition is launched through a 40 mm launcher at a high arc. The four submunitions will travel in a high arc and begin to expel burning CS agent. The separated 4 submunitions will land and continue to discharge CS until fully expelled. Direct fire at subjects can cause serious bodily or death. Capable of causing a mixture of CS and smoke to use with outdoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	100
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds at greater distances. The submunition creates a cloud of smoke laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

<b>Defense Technology Muzzle Blast 6042</b>	
<b>Description</b>	40mm launched CS powder
<b>Manufacturer's Product Description</b>	The 40 mm Muzzle Blast CS Round is widely used as a crowd management tool for the immediate and close deployment. It can also be employed in tactical operations such as barricaded subjects, room clearing, area denial, and for small space contamination, and a means of contaminating crawl spaces and attics. As a pain compliance round it is an excellent device for deploying chemical-laden CS powder at close ranges for indoor or outdoor operations. The cloud of agent is very effective in filling holes in dispersals lines or engaging crowds at close distances.



Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

<b>Capabilities / How the item works</b>	The munition is launched through a 40 mm launcher at closer ranges. The projectile is fine CS powder which disperses 5-10 ft depending environmental conditions. Capable of causing a mixture of CS and smoke to use with outdoor applications.
<b>Expected lifespan</b>	5 year per manufacturer
<b>Quantity</b>	40
<b>Purpose and intended uses and/or effects</b>	With command approval, primarily used in crowd control incidents directed towards violent offenders, to stop violent behaviors and disperse violent crowds that are at closer range. CS micro particulates is expelled from the launcher which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing. <b>We do not use, as it can easily get confused with a CS SKAT shell munition as they are similar in shape and appearance</b>

<b>Defense Technology 40mm Ferret CS 2262</b>	
<b>Description</b>	40mm launched CS munition that breaks apart when it impacts hard material and disperses liquid CS agent
<b>Manufacturer's Product Description</b>	The Ferret® 40 mm Barricade Penetrating Round is filled with a CS liquid chemical agent. It is a frangible projectile that is spin stabilized utilizing barrel rifling. It is non-burning and designed to penetrate barriers. Primarily used to dislodge barricaded subjects, it can also be used for area denial. Primarily used by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impact the nose ruptures and instantaneously delivers the agent payload inside a structure or vehicle
<b>Capabilities / How the item works</b>	The munition is launched through a 40 mm launcher through windows and thinner material like glass, light skinned doors and dry wall. Once the projectile strikes a firmer surface, it breaks apart and disperses liquid CS agent in a mist form. This munition can cause serious bodily or death if directly fired at a subject. Capable of delivering CS to a room through a wall or other thin barrier.
<b>Expected lifespan</b>	5 year per manufacturer

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

<b>Quantity</b>	30
<b>Purpose and intended uses and/or effects</b>	This munition is primarily used during tactical team call outs in order to dislodge violent barricaded suspects resisting apprehension. It is launched in a low to high trajectory at upper portion of exterior windows/doors/vents with intention to impact upper portion of walls/ceilings on other side. The liquid/mist laden with CS micro particulates, which can cause temporary tearing of eyes, stinging/burning sensation to skin, and coughing

**Fiscal Costs**

***Initial Costs***

The Oakland Police Department (OPD) currently owns/possesses/uses the equipment. Initial costs (if known) to obtain the equipment were:

The Department’s current inventory of chemical munitions was purchased prior to the tenure of current section commanders – cost at the time of purchase is not readily available. However, costs for launched and hand/thrown chemical agents appear to be set commercially at around \$30-\$55 per unit.

Assuming a cost of approximately \$50 / unit (conservatively), combined with our current inventory of approximately 1,125 units, the initial cost of the Department’s current inventory was approximately \$56,250.

OPD proposes to obtain the equipment. Initial costs are anticipated to be:

***Estimated or anticipated costs for each proposed use***

Costs for the item itself are limited to the cost needed to replace each munition after it is expended, plus negligible maintenance costs for the launcher, if applicable.

For uses where a person is impacted by the chemical agent, the costs for anticipated impacts (such as first aid on scene or medical treatment) can range depending on what type of treatment is needed and by whom (or what agency) it is given. For adverse effects, more in depth medical treatment may be needed. Furthermore, even justified uses of force involving chemical agents may result in costly litigation or other costs.

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

### ***Estimated or anticipated costs of potential adverse impacts***

There is no way of anticipating every possible adverse impact, and there may be some impacts that occur which are extremely unlikely or unforeseeable. Additionally, even some known possible adverse effects may be so remote that they were not assessed for the purposes of this report. Furthermore, injuries may result as a consequence (unintended or not) of the use of controlled equipment. If the controlled equipment is a weapon, then the cost of injuries resulting from use of that weapon can vary considerably. Since persons in OPD's custody are typically treated at Alameda County Hospital, Highland Campus, the costs for this treatment, if not covered by insurance or other means, may be paid with public funds. Recovery from injuries and/or trauma relating from situations in which controlled equipment is used could include ongoing costs such as medications or counseling. Finally, costs of even likely adverse effects may vary wildly based on other circumstances which are difficult to predict and can vary from incident to incident. Keeping this in mind, some potential adverse effects and their possible costs are:

Deliberate misuse might cause the Department to be exposed to liability, which could include monetary judgments against the City. In the past, victims of misuse of military equipment have successfully litigated settlements from the City of Oakland. The aim of this policy to prevent uses of these weapons that result in litigation and settlements.

Unintentional misuse might cause the Department to be exposed to liability, which could include monetary judgments against the City.

Failures of the equipment might cause the Department to have to purchase additional items, at a cost per item as indicated.

Potential negative impacts include respiratory effects, hospitalization or exacerbation of existing respiratory illnesses; emotional trauma to vulnerable and/or minor bystanders; and potential litigation costs. An additional potentially negative impact is if launched chemical munitions strike a person directly. This can cause serious injuries, up to an including death. To mitigate this possibility, the Department both trains and has policy in TB III-G on how to launch projectiles to minimize the chance that anyone will be struck by the projectile. For launched chemical agents used during tactical operations, the policy specifically states that these items shall not be direct fired at a person unless lethal force is necessary.

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

### ***Estimated or anticipated ongoing costs***

Due to changes in the way that the Department polices crowds, in addition to changes to state law in AB 48, the Department anticipates minimal use of chemical agents in crowd control situations moving forward. The Department does anticipate some use of these munitions during large-scale criminal activities (such as attacks on officers during sideshow enforcement) or during tactical team operations. In any use, the main ongoing costs are for:

- Replacement of munitions expended; typically \$30-\$55/munition;
- Ongoing training costs, built into Tactical Team School and ongoing tactical team and patrol rifle officer (PRO) training

## **Impacts**

### ***Reasonably anticipated impacts***

#### Deliberate misuse.

Though unlikely, it is possible that Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042 may be deliberately misused by employees. Some of the ways that the Department attempts to prevent deliberate misuse is through background checks of prospective employees, supervision and training, strict policy guidelines, robust reporting and accountability practices, and discipline for deliberate misconduct up to and including termination. Suspected criminal misuse of equipment may also be forwarded to the District Attorney's office or other appropriate prosecuting agency for charging consideration.

#### Unintentional misuse.

Oakland Police Department  
Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

Unintentional misuse of Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042 may come in many forms, from unfamiliarity or lack of training to the encountering of a scenario that was not anticipated in training or policy. The Department attempts to prevent unintentional misuse through thorough training, clear policy prescriptions, and robust review processes such as force reports, force review boards, and pursuit review boards.

Perception of militarization or exacerbation of a police/community divide.

While it is not the intent of the Department that this occur, the Department does recognize the possibility that its use of Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042 may lead to a perception of militarization of the Department, or an exacerbation of any existing divides between the Department and the community it serves and is a part of. The Department attempts to overcome challenges such as this by taking full advantage of community forums required by policy and law (see for instance the mandated community engagement meeting in DGO K-07 and CA Government Code § 7072(b)), by completing full and robust reports such as this one, and by collaborating with the Police Commission in the creation of use policies and procedural safeguards surrounding this equipment.

Litigation Surrounding Use During Crowd Control

The Department, along with other law enforcement agencies, recognizes that the use of chemical agents during crowd control often results in litigation. The Department has engaged with plaintiff's attorneys from previous actions as well as the Oakland City Attorney's office to codify changes in crowd control law as well as injunctions against the City

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

which limit chemical munitions use during crowd control to only the most severe of situations.

#### Fire Hazards During Use for Tactical Operations

Certain hand-thrown chemical munitions used by the Department disperse the chemical munition by using a burning action. This causes the body of the munition to become very hot; that heat can cause flammable or combustible materials to catch fire. For these reasons, the manufacturer specifically recommends that these items only be used outdoors. The Department does not use burning chemical agents in residences or structures to avoid this negative outcome; additionally, similar to SIM use, operators using chemical munitions double-check the munition they are using with another officer prior to deploying it to ensure that it is the appropriate munition and will not cause burning.

## **Mitigations**

### ***Use of force and de-escalation policy - [DGO K-03](#)***

Controlled and military equipment frequently takes the form of a force option, or else is often used during high risk situations where force may be used. OPD, in concert with the Police Commission, created a state-of-the-art use of force policy that centers the Department's mission, purpose, and core principles, provides clear guidance that force is only allowed when reasonable, necessary, and proportional, and makes clear the consequences of unreasonable force. Additionally, OPD's use of force policy incorporates a robust de-escalation policy (Section C), which mandates that officers use de-escalation tactics and techniques in order to reduce the need for force when safe and feasible.

The entirety of this policy – which encapsulates OPD's values surrounding force and commitment to de-escalation – is a clear general procedural mitigation to the possible adverse impacts of the use of this equipment.

### ***Force reporting and review policy and practice - [DGOs K-04 and K-04.1](#)***

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

Though the Department expects that every use of this equipment will be within the boundaries of policy and law, the Department also has clear procedures regarding force reporting and review in place. DGO K-04 and its attendant special orders require that force by officers – including force where controlled equipment was used – be properly reported and reviewed, with the level of review commensurate to the severity of the force incident. Additionally, for severe uses of force or where a use of force had severe outcomes, the Department utilizes Force Review Boards, led by top Department command staff and often attended and observed by Community Police Review Agency staff or Police Commission Chairs, to review every part of a force incident. These boards not only determine whether the force was proper, but also have wide latitude to suggest changes in policy, training, or practice, including with controlled equipment.

OPD's force reporting and review policies and practices serve as important procedural mitigations to the possible adverse impacts of the use of this equipment.

### ***Complaint receipt and investigation procedures – [DGO M-03](#)***

The use of controlled equipment, as with any use of the police powers, is subject to the rules and laws that govern the Department and its employees. Complaints and allegations that the Department or its employees have violated these rules or laws are treated with the utmost seriousness, including proper intake at the Internal Affairs Division and investigation by the appropriate investigative individual. Where allegations are found to be substantiated, the Department uses a progressive discipline structure to serve both deterrent and rehabilitative functions. Finally, deliberate misconduct or actions contrary to the Department's values are not tolerated, and can lead to termination of employment.

OPD's complaint receipt and investigation procedures serve as important procedural mitigations to the possible adverse impacts of the use of this equipment.

### ***Community outreach and specific inquiry pathways – [DGO K-07](#)***

Use of controlled equipment, especially equipment that may have analogues used by militaries or quasi-military federal law enforcement, can drive perceptions of a militarized police force that is pre-disposed to the use of force as opposed to thoughtful, deliberate resolutions to incidents using de-escalation and minimizing the use of force. An important procedural mitigation to this type of perception is regularly communicating with the

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

community served, as a way for information to be shared in both directions. This serves to dispel common misconceptions as well as provide valuable perspective for the Department and its employees. OPD uses community outreach, such as social media, community events, and a specific, annual community forum as required by DGO K-07. Additionally, OPD's overarching controlled equipment policy sets forth processes for inquiries about the equipment.

### ***Equipment-specific use policy and Police Commission oversight – OMC 9.65***

While most every law enforcement agency is bound by state law (Government Code § 7070 et. seq.), the very nature of police oversight in Oakland provides one of the most powerful procedural mitigations of potentially adverse impacts. For instance, state law requires that most agencies have their controlled equipment use policies approved by their governing body (e.g., City Council, or Board of Supervisors). In the case of OPD, however, there is an additional layer of oversight in the Police Commission, which must review any controlled equipment use policy prior to it being approved by the City Council. This requirement, set forth in Oakland's municipal code section 9.65, is a procedural mitigation to the possible adverse impacts of the use of this equipment.

### ***Technical safeguards***

The Department specifically only uses CS (as opposed to a less-common chemical agent, CN) due to the fact that CS ("tear gas") typically produces mild to moderate effects and can be more easily decontaminated versus CN ("Mace").

### ***Procedural safeguards***

The Department utilizes significant procedural safeguards surrounding chemical agents, to include:

- Severely limiting chemical agents during crowd control
- Requiring approval from a command officer to use chemical agents during tactical operations, and for limited purposes involving violence or the threat of weapons
- Limiting officers who can use these agents to only specially trained tactical team and patrol rifle officers



Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

- Keeping inventory of chemical agents brought to the field (even if not used) during crowd control to ensure specific munition accountability.

## **Alternatives**

### ***De-escalation and alternative strategies***

As mentioned in the Mitigations section, above, OPD officers are mandated to use de-escalation strategies and tactics when safe and feasible. These strategies and tactics, which are predicated on de-escalation best practices around communication, containment, positioning, and time/distance/cover, reflect the Department's commitment to de-escalation over the reliance on force to compel compliance.

However, even during de-escalation strategies and actions, controlled equipment may be used or ready to further a safe outcome to the event for the engaged person, the community, and the officers. Generally, a built-in alternative to the actual use of controlled equipment – especially as a force option – is its use as a tool to provide safety, information, or containment to an incident so that officers can bring the situation under control and hopefully encourage a peaceful outcome. This, in conjunction with other de-escalation or alternative strategies, provides a baseline for OPD officers in the conduct of their duties when using or contemplating the use of this controlled equipment.

It is also instructive to consider the possible adverse costs of not possessing this equipment. For instance, the unavailability of a particular tool may adversely impact the safety of police personnel and the community by limiting de-escalation strategies, exposing personnel to greater risk, or limiting the options available to safely resolve situations.

The Department uses multiple other de-escalating methods during crowd control prior to the use of chemical agents. These include announcements, warnings, metering out of crowds, use of larger amounts of police officers to control riotous behavior, and arrests if necessary.

Chemical agent use during tactical operations is limited to the Tactical Team, and only with the approval of a command officer. However, before chemical agents are considered as a force option, the tactical team utilizes the principles of de-escalation, including surrounding, announcements, and negotiations.

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

## **Location**

Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042 will typically be used within the areas that OPD has jurisdiction or in areas of the State of California where OPD is specifically conducting operations or investigations. This includes the entirety of the City of Oakland, and may include neighboring jurisdictions or other areas within the State.

## **Third Party Dependence**

- This item does not require third-party actors for operation.
- This item does require third-part actors for operation:

## **Track Record**

Chemical agents have a long and, frankly, less-than-stellar reputation in American policing. Frequently used in crowd control, there is a track record of indiscriminate use of chemical agents during these types of incidents. Additionally, there have been negative consequences due to the use of chemical munitions during crowd control, to include serious injuries. In Oakland, the City of Oakland and the Police Department have been the targets of litigation several times due to crowd control techniques that were used in the past, as recently as 2020.

The controversies surrounding OPD's use of chemical agents during crowd control coincided with a debate surrounding the use of chemical agents during crowd control by California law enforcement. In September of 2021, the State of California passed legislation limiting the use of chemical agents during crowd control to only situations in which the use "is objectively

Oakland Police Department

Controlled Equipment Impact Report

Item(s): Defense Technology Riot Control 1082, Defense Technology Triple Chaser 1026, CTS Triple Phaser 5231, Defense Technology CS Han-Ball 1092, Defense Technology CS Blast 1097, CTS 9430 Tear Ball CS, Defense Technology Stinger 1087, Defense Technology Flameless Tri-Chamber 1032, Defense Technology Pocket Tactical CS 1016, CTS Baffled 5230B, Defense Technology CS SKAT shell 6172, Defense Technology 40mm Ferret CS 2262, Defense Technology CS Muzzle Blast 6042

reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control...” and only after other efforts have failed or would be unreasonable. This legislation came after many debates on the use of chemical agents, including their track record. OPD’s policy follows the mandates of this law.