



CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police, Oakland
Police Department

SUBJECT: OPD's Militarized/Controlled
Equipment Polices

DATE: October 6, 2022

City Administrator Approval 

Date: Oct 6, 2022

RECOMMENDATION

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

EXECUTIVE SUMMARY

This memorandum is to submit Oakland Police Department (OPD) policies to the City Council for approval. These polices fall under California Government Code § 7070 et seq. (aka "AB 481") and Oakland Municipal Code (O.M.C.) Chapter 9.65. Collectively, these will be referred to as the "militarized and controlled equipment laws." The laws require police departments to submit a Controlled Equipment Use Policy/Impact Report prior to using or purchasing any "military" equipment.

O.M.C. 9.65.020 requires the Police Department (Department) to submit the proposed Policies and Impact Reports through the Police Commission. The Police Commission shall only recommend "Adopt", "Modify" or "Reject." With a collaboration of the Police Commission and Community, the following military policies are ready for approval:

Department General Order K-7: Military Equipment Funding, Acquisition and Use Policy

The purpose of this policy is to provide rules for the approval, acquisition, use, and reporting requirements of military equipment, as outlined in Government Code § 7070, O.M.C.9.65, et seq., to safeguard the public's welfare, safety, civil rights, and civil liberties. See **Attachment A**.

Department General Order K-6: Department Rifles and Impact Report

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The purpose of this order is to set forth department policy and procedures to regulate the field deployment of department rifles and record their deployment; and establish selection, certification, and training protocols for patrol rifles issued to field officers within the Patrol Rifle Program (PRP). See ***Attachments B and C***.

Training Bulletin III-H: Specialty Impact Munitions and Impact Report

The purpose of this Training Bulletin is to provide members with guidelines on the use of Specialty Impact Munitions (SIM). This Training Bulletin does not supersede the training and qualification requirements members shall meet to use and deploy SIM. See ***Attachments D and E***.

Training Bulletin III-P.04: Armored Vehicles and Impact Report

The purpose of this Training Bulletin is to serve as a guideline for the safe use and deployment of any armored vehicle allowed to operate in the Department's jurisdiction. This Training Bulletin applies to all armored vehicle deployments by the Department through mutual aid to other jurisdictions, and to armored vehicle deployments by other agencies operating in Oakland under the Department's control. See ***Attachments F and G***.

Training Bulletin III-G: OPD Crowd Control and Crowd Management Policy and Impact Report; Riot Helmets Impact Report

The purpose of this Training Bulletin is to set forth policy and procedures regarding crowd control and crowd management. See ***Attachments H and I***.

Training Bulletin V-F.2: Chemical Agents and Impact Report

Chemical agents broadly encompass multiple force options which utilize an agent that reacts with the human body to distract or counter threats, disperse crowds under very limited circumstances, or detect and dislodge barricaded persons. Chemical agents are an intermediate force option and are designed to be less lethal. See ***Attachments J and K***.

Department General Order I-25: Unmanned Aerial Systems (UAS) and Impact Report

OPD believes in protecting and serving its diverse community and city through fair, equitable and constitutional policing. OPD believes in the usage of technology to aid in this mission and in the investment of Unmanned Aerial Systems (UAS), or better known as "Drones". These fleets will never replace the police officers who have sworn to protect the community, but will assist in mitigating use of force, bring safe resolutions to critical incidents, and help save lives. OPD is committed in safeguarding and respecting the privacy of the community and has brought measures and policies in place to ensure none are violated. Regardless of deployment, UAS will be utilized in accordance with OPD Core Values and our Mission. See ***Attachments L and M***.

Department General Order I-26: Remoted Controlled Ground Systems (Robots) and Pole Cameras and Impact Report

Robots and pole cameras have been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. Robots and pole cameras can support first responders in hazardous incidents that would benefit from a ground, and or aquatic level perspective. In addition to hazardous situations, robots and pole cameras have applications in

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locating and apprehending subjects, missing persons, and search and rescue operations as well as task(s) that can best be used in crawl spaces or confined isolated areas, or bodies of water. This immensely assists in searches for suspects, victims or evidence in an efficient and effective manner. Any use of a robot or pole camera will be in strict accordance with constitutional and privacy rights and OPD Policy. See **Attachments N and O**.

Training Bulletin III-P.05: Noise-Flash Diversion Devices (Flash bangs) and Impact Report

The purpose of this Training Bulletin is to establish guidelines for the deployment and use of Noise-Flash Diversion Devices (NFDD), sometimes referred to as “Flash bangs”. See **Attachments P and Q**.

Note: Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.

On September 8, 2022, the Police Commission heard the presentations on one of the policies and recommended “Adopt” for one (1).

On September 16, 2022, the Police Commission heard the presentations on five (5) of the policies and recommended “Adopt” for all.

On September 22, 2022, the Police Commission heard the presentations on the three (3) policies and recommended “Adopt” for two (2) and Approve with Modifications on **DGO I-26, Ground Robots**. The disagreement was whether the robots could be armed with weapons. The Department has since coordinated with the Police Commission on revisions to the policy which allow for the use of a pepper spray canister attachment for the ground robots to be used consistent with the Department’s force policy but otherwise strictly prohibit using the attachable tools (such as the ‘pan disrupter’ or glass/tire puncture tool) from being used as force against persons.

Policy Name	Date Approved by Police Commission	Police Commission Recommendation to City Council
K-07, Militarized Equipment	9/8/22	Approve
K-06, Department Rifles	9/16/22	Approve
TB III-H, Specialty Impact Munitions	9/16/22	Approve
TB III-P.04, Armored Vehicles	9/16/22	Approve
TB III-G, Crowd Control	9/16/22	Approve
TB V-F.02, Chemical Agents	9/16/22	Approve
DGO I-25, UAS (Drones)	9/22/22	Approve
DGO I-26, Ground Robots	9/22/22	Approve with Modifications

REASON FOR URGENCY

According to Government Code 7070 and OMC 9.65, the Police Department must **submit** the packets (Policy/Impact Report) to City Council for their October 2022 meeting. This report has been submitted to be heard at the October 18, 2022, City Council meeting, having an October 6, 2022, agenda submission deadline.

The City Council shall consider the Police Commission's recommendation within one hundred and twenty (120) days of the commission's vote on the department's proposed changes and may approve or reject the decision. If the council does not approve or reject the commission's decision, the commission's decision will become final.

BACKGROUND / LEGISLATIVE HISTORY

The Oakland City Council passed C.M.S. 13657 on July 6, 2021, enshrining Chapter 9.65 into the O.M.C. This ordinance requires that OPD produce reports and use policy / policies prior to taking specific actions with militarized or otherwise controlled equipment. Those actions include acquiring, borrowing, accepting funds for, or otherwise using the equipment. Additionally, the ordinance gave the Department one (1) year from the date of passage (July 6, 2022) to produce the required reports and policy / policies for equipment controlled by the ordinance that was already in use by the Department at the time of passage of the ordinance. The Police Commission approved a three (3) month extension from the one-year deadline.

The State of California took much of the language in Oakland's ordinance and adopted it in an assembly bill (AB 481) that was passed by the legislature and signed into law on September 30, 2021. This law, comprising sections 7070-7075 of the Government Code, requires that law enforcement agencies (OPD is a law enforcement agency under this statute) obtain the approval of their governing body prior to taking certain actions relating to the funding, acquisition, or use of military equipment, which is defined in the law.

Starting on June 6, 2022, Police Department members, Police Commission members and Community members have been meeting on a regular basis to collaborate on the military policies. The Ad Hoc committee has been an excellent forum for the Police Department to explain policies and procedures. The committee has had good discussions around how to police the city safely and keep the community at the forefront.

ANALYSIS AND POLICY ALTERNATIVES

The Citywide priority identified for this recommended action is *responsive, trustworthy government*.

The purchase and use of military equipment and its deployment in our city can possibly adversely impact the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurrent of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

The public has a right to know how the Department's military equipment is used.

With the adoption of the use and impact policies, this will put into place tracking mechanisms to be transparent on where and why this equipment is being used.

The Department stands by its belief that military equipment is needed to keep community members and officers safe.

PUBLIC OUTREACH/ INTEREST

Starting on June 6, 2022, the Police Department members, Police Commission members and Community members have been meeting on a regular basis to collaborate on the military policies. This has been a transparent process where all the virtual Zoom meetings have been live to the public and all the meetings have been posted on the Police Commission website for review. The Department has valued the input from the Commissioners and Community members to improve the Policies and Impact reports to make them more comprehensive and progressive.

The Police Commission held public meetings (via Zoom) to discuss the military policies in a public forum. The meetings were held on:

- September 8, 2022
- September 16, 2022
- September 22, 2022

The public had the opportunity to attend the meetings and comment on all the policies in this agenda.

FISCAL IMPACT

See Impact Reports for fiscal costs. The Department has the military equipment in its inventory.

FOLLOW-UP

The Department is required to submit an annual controlled equipment report to the Police Commission no later than March 15th of each year. The report will contain a summary of how the controlled equipment was used, breakdown where (police area) the controlled equipment was deployed, summary of complaints received, estimated annual costs, impacts, mitigations, and alternatives.

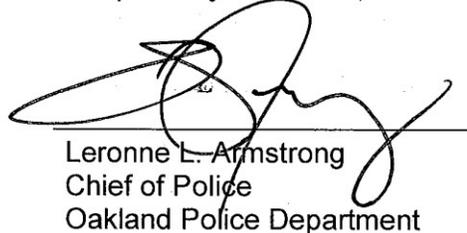
This report will be public and available to the community.

ACTION REQUESTED OF THE CITY COUNCIL

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

For questions regarding this report, please contact Jeff Thomason, Lieutenant of Police, (510) 773-1076.

Respectfully submitted,



Leronne L. Armstrong
Chief of Police
Oakland Police Department

Reviewed by:

Darren Allison, Assistant Chief of Police
OPD, Office of the Chief

Joseph Turner, Lieutenant of Police
OPD, Policy and Publications

Tracey Jones, Police Services Manager
OPD, Research and Planning

Prepared by:
Jeff Thomason, Lieutenant of Police
Special Resource Section, BFO 1

Attachments (17):

- A: Department General Order K-7: Military Equipment Funding, Acquisition and Use Policy
- B: Department General Order K-6: Department Rifles
- C: Department Rifles Impact Report
- D: Training Bulletin III-H: Specialty Impact Munitions
- E: Specialty Impact Munitions Impact Report
- F: Training Bulletin III-P.04: Armored Vehicles

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G: Armored Vehicles Impact Report
H: Training Bulletin III-G: OPD Crowd Control and Crowd Management Policy
I: Riot Helmets Impact Policy
J: Training Bulletin V-F.2: Chemical Agents
K: Chemical Agents Impact Report
L: Department General Order I-25: Unmanned Aerial Systems (UAS)
M: Unmanned Aerial Systems (UAS) Impact Report
N: Department General Order I-26: Remoted Controlled Ground Systems (Robots) and Pole Cameras
O: Remoted Controlled Ground Systems (Robots) and Pole Cameras Impact Report
P: Training Bulletin III-P.05: Noise-Flash Diversion Devices (Flash bangs)
Q: Noise-Flash Diversion Devices (Flash bangs) Impact Report