


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

BY INTRODUCED BY COUNCIL PRESIDENT NIKKI FORTUNATO BAS

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

WHEREAS, the City Council in June 2021 found “that the acquisition of military and militaristic equipment and its deployment in Oakland can adversely impact the public’s safety and welfare, including introducing significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurring significant financial costs” and adopted Oakland Municipal Code Chapter 9.65; and

WHEREAS, the California state legislature stated in Assembly Bill 481 (2021) that “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”; and

WHEREAS, the California state legislature stated also in Assembly Bill 481 (2021) that a governing body shall only approve a military equipment use policy if it determines “The proposed military equipment use policy will safeguard the public’s welfare, safety, civil rights, and civil liberties”; and

WHEREAS, AB 481 defines “Unmanned, remotely piloted, powered aerial or ground vehicles” and “Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code” as “military equipment”; and

presence of minors, elderly, medically compromised, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people”, which variable “should be given special consideration due to the potential for trauma”; and that prohibits deployment of armored vehicles for “Recruitment, public relations, or promotional activities; Crowd control; or Routine patrol operations”; and

WHEREAS, the policy proposed for assault rifles would permit deployment by OPD of such rifles in unspecified conditions; in which pre-planned deployment of assault rifles would not require consideration of the presence of vulnerable people, including minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, or people with limited English

proficiency; and would not prohibit deployment of assault rifles for public relations, recruitment, crowd control, or routine patrol activities; and

WHEREAS, the proposed Department General Order I-26 on robots states the purpose of robots is to save lives, protect property, and detect dangers, yet robots are authorized for use against people as anti-personnel weapons by authorizing the use of force, including but not limited to chemical agents attached to robots (a policy that few other law enforcement agencies in California have proposed); and

WHEREAS, AB 481 requires that law enforcement agencies obtain approval by the governing body prior to “Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body”; and

WHEREAS, current Oakland Police Department General Order L-3 on mutual aid states that “Prior to deployment, outside law enforcement units shall ... be told which weapons and munitions are prohibited according to Departmental policy”; and

WHEREAS, the Oakland Police Department proposed to the Oakland Police Commission Ad Hoc Committee on Military Equipment that, for explosive breaching tools, “Mutual aid shall not be utilized for the purpose of bypassing any listed prohibition, rule or procedure outlined in this Training Bulletin”; and

WHEREAS, the proposed Department General Order K-7 on military equipment would not restrict outside law enforcement agencies from using their own military equipment in Oakland, such as launchers, robots, drones, assault rifles, or armored vehicles, in a manner inconsistent with Oakland's policies for such equipment, potentially violating Oakland community standards or civil liberties; and

WHEREAS, outside law enforcement agencies whose assistance may be requested in Oakland, including the Alameda County Sheriff’s Office, have policies that are less protective of civil rights or restrictive of use for military equipment that is also approved for use by Oakland PD; for example, while Oakland prohibits the deployment of armored vehicles for crowd control and routine patrol, Alameda County Sheriff’s Office’s policy for armored vehicles contains no such restrictions; and

WHEREAS, Oakland City Charter Section 604(b)(4) provides in relevant part that the Police Commission may: “[p]ropose changes at its discretion *or upon direction, by adoption of a resolution, of the City Council, including modifications to [OPD’s] proposed changes to any policy*, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements . . . The City Council shall consider the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, *and may approve, modify and approve, or reject the changes*. If the Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications, the changes or modifications will become final.”(emphasis added); and

WHEREAS, the Oakland City Council seeks to direct 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; and (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; now therefore, be it

RESOLVED: that pursuant to Section 604(b)(4) of the Oakland City Charter, the City Council does hereby direct the Oakland Police Commission to propose changes to the following Oakland Police Department policies: (1) DGO K-7 on Military Equipment Funding, Acquisition and Use Policy; (2) DGO K-6 on Department Rifles; and (3) DGO I-26 on Robots (Remote Controlled Ground Systems); and be it

FURTHER RESOLVED: that pursuant to Section 604(b)(4) of the Oakland City Charter, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-7 on Military Equipment Funding, Acquisition and Use Policy that would require members of outside agencies in Oakland during a mutual aid deployment shall be briefed on Oakland's military equipment use policy before participating in any mutual aid activities; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-7 on Military Equipment Funding, Acquisition and Use Policy that would clarify that mutual aid shall not be utilized for the purpose of bypassing any Oakland Police Department policy, prohibition, rule, or procedure; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to prohibit rifle use for recruitment, public relations, promotional activities, crowd control, and routine patrol operations; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to direct 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. (Reference DGO K-3 Use of Force for definition of "vulnerable people".); and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to clarify that all use not authorized by DGO K-6 is prohibited; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO I-26 on Robots (Remote Controlled Ground Systems) to prohibit escalatory use, including use of force or other anti-personnel applications; and be it

FURTHER RESOLVED, that if the Commission Chair is unable to submit proposed changes to the City Council for review and consideration in accordance with Charter section 604(b)(4) on or before March 18, 2023, the Council hereby requests that the Police Commission submit and present a status report to the Council on or before March 18, 2023 to advise the Council of its progress.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the City of
Oakland, California

