



CITY OF OAKLAND

AGENDA REPORT

TO: G. Harold Duffey
Interim City Administrator

FROM: Darren Allison
Acting Chief of Police

SUBJECT: OPD's Militarized/Controlled
Equipment Polices: Robots, Rifles,
Military Equipment, Specialty Impact
Munitions and Chemical Agents

DATE: March 9, 2023

City Administrator Approval

Date: Mar 9, 2023

RECOMMENDATION

Staff Recommends The City Council Adopt The Following Pieces Of Legislation:

1) An Emergency 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 General Order K-7 (Military Equipment Funding, Acquisition And Use Policies); (2) Departmental General Order K-6 (Department Rifles); and (3) Departmental General Order I-26 (Regarding Robots and Remote Controlled Ground System); and

2) An Emergency 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) Training Bulletin V-F.2 (Chemical Agents); and (2) Training Bulletin III-H (Specialty Impact Munitions).

EXECUTIVE SUMMARY

This memorandum is to submit Oakland Police Department (OPD) policies to the City Council for approval. These policies 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.

On January 17, 2023, the City Council adopted a resolution, pursuant to Section 604(b)(4) of the Oakland City Charter, directing the Oakland Police Commission to propose changes to Departmental General Order K-7 (Military Equipment Funding, Acquisition, and Use Policy),

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Departmental General Order K-6 (Department Rifles), and Departmental General Order I-26 (regarding Robots and Remote-Controlled Ground Systems).

Also on January 17, 2023, the City Council adopted an ordinance approving several Controlled Equipment Use Policies but rejected approval of Training Bulletin V-F.2 (Chemical Agents) and Training Bulletin III-H (Specialty Impact Munitions).

The policies listed below that are presented for City Council approval have incorporated additional deliberation and input from the City Council and the Police Commission, and they were reapproved by that body at two separate meetings: (1) on January 26, 2023, (for DGO K-7, K-6 and I-26) and (2) on February 23, 2023, (for TB III-H and TB V-F.2) with incorporation the City Council amendments/feedback.

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

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**.

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 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 H and I**.

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

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qualification requirements members shall meet to use and deploy SIM. See **Attachments D and E**.

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 F and G**.

REASON FOR URGENCY

The urgency for the enactment of an emergency ordinance is predicated on the fact that the City is operating under a statutory deadline and the need to have City Council approve these policies before the March 30, 2023, deadline, in order for the Police Department to continue using the equipment. Any delays in adoption of the Ordinances would affect police operations and officer safety and that would impact public safety.

The policies are part of a larger whole (policies and impact reports governed by California Government Code § 7070 Et Seq. (Aka "AB 481") and Oakland Municipal Code Chapter 9.65. In terms of the statutory deadline the City is operating under, Government Code § 7070(b) provides in relevant part as follows: "...within 180 days of submission of the proposed equipment use policy to the governing body, the law enforcement agency shall cease use of its military equipment until it receives approval of the governing body . . .".

BACKGROUND/LEGISLATIVE HISTORY

The OPC sent their recommendation to approve to the City Council on October 18, 2022. The item was withdrawn because the Council asked the OPC to review the policies for additional community amendments, and moved the item to the November 1, 2022, for Council approval.

The Militarized Equipment Ad Hoc Committee and the OPC conducted meetings to revisit the policies with proposed amendments by the City Council. Subsequently, the Council adopted some but not all the policies on December 20, 2022, and on January 17, 2023, Council meetings.

During the City Council meeting on January 17, 2023, the Council adopted a resolution to direct the OPC to revisit the remaining policies and consider the amendments proposed by the City Council, in pursuant to Section 604(B)(4) of the Oakland City Charter.

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The OPC's Militarized Equipment Ad Hoc Committee then met on January 18 and January 23, 2023, responding to the City Council direction, and subsequently OPC deliberated and reapproved these policies at its January 26, 2023, and February 23, 2023, meetings with the Council amendments.

The policies are presented for Council approval in accordance with Oakland Municipal and California Government codes.

ANALYSIS

The recommended action demonstrates Oakland is a trustworthy government and is responsive to community questions and concerns.

The purchase and use of military equipment and its deployment in our city could 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.

To address this issue, OPD addresses impacts and mitigations in the impact reports which are required for each policy. Generally, OPD's mitigation strategy includes policy controls around force and force reporting, complaint intake and investigation, community outreach and specific inquiry pathways for militarized equipment, and equipment-specific use policies developed in conjunction with the oversight body (Police Commission). OPD also specifically uses risk management processes, which analyze collected data that includes data on the race of persons impacted by policing strategies and equipment, to inform strategies and offer areas where mitigation or use policy modification may be appropriate.

The public has a right to know how the Police Department's military equipment is used. The adoption of the use and impact policies will put into place tracking mechanisms on transparency on where and why this equipment is being used.

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

OPD also welcomes the consideration and inputs of the City Council.

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FISCAL IMPACT

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

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. Zoom meetings were live and open to the public and all the meetings have been posted on the Police Commission [website](#) for review. The Police Department has valued the input from the City Council Members, Commissioners and Community members to improve the Policies and Impact reports to make them more comprehensive and progressive.

The OPC 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
- October 13, 2022
- November 7, 2022
- November 21, 2022
- January 18, 2023
- January 23, 2023
- January 26, 2023
- February 23, 2023

The Oakland City Council also further discussed the military policies at the Council meetings (via Zoom). The meetings were held on:

- October 18, 2022
- November 1, 2022
- December 6, 2022
- January 17, 2023
- February 7, 2023

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

COORDINATION

The Police Commission with the input of the City Council, Budget Bureau, and the Office of the City Attorney were consulted on the development of this report and accompanying resolution.

SUSTAINABLE OPPORTUNITIES

Economic: Fiscal impact details are included in the impact reports (***Attachments C, E, G, and I***).

Environmental: Any potential environmental issues associated with these policies are included in the impact reports (***Attachments C, E, G, and I***).

Race and social equity: 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. To address this issue, OPD addresses impacts and mitigations in the impact reports (***Attachments C, E, G, and I***) which are required for each policy.

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ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact Jeffrey Thomason, Acting Captain of Police, at Jthomason@oaklandca.gov.

Respectfully submitted



Darren Allison
Acting Chief of Police
Oakland Police Department

Reviewed by:
Darren Allison, Acting Chief of Police
OPD, Office of the Chief

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Jeffrey Thomason, Acting Captain of Police
OPD, Area 2

Tracey Jones, Police Services Manager
OPD, Research and Planning

Prepared by:
Michael Sze, Management Assistant
OPD, Research and Planning

Attachments (9):

- 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 V-F.2: Chemical Agents
- G: Chemical Agents Impact Report
- H: Department General Order I-26: Remoted Controlled Ground Systems (Robots) and Pole Cameras
- I: Remoted Controlled Ground Systems (Robots) and Pole Cameras Impact Report