



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

September 16, 2022

5:30 P.M.

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department to ensure its policies, practices, and customs conform to national standards of constitutional policing, and to oversee the Office of the Inspector General, led by the civilian Office of Inspector General for the Department, as well as the Community Police Review Agency (CPRA), led by the Executive Director of the Agency, which investigates police misconduct and recommends discipline.

**Pursuant to California Government Code Section 54953(e), members of the Police Commission, as well as the Commission's Counsel and Community Police Review Agency staff, will participate via phone/video conference, and no physical teleconference locations are required.**



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### PUBLIC PARTICIPATION

The Oakland Police Commission encourages public participation in the online board meetings. The public may observe and/or participate in this meeting in several ways.

#### OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/81866627812> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled “Joining a Meeting”
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 US or +1 646 558 8656 or +1 301 715 8592

**Webinar ID: 818 6662 7812**

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting By Phone.”

**PROVIDE PUBLIC COMMENT:** There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

- Comment in advance. To send your comment directly to the Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to [radwan@oaklandca.gov](mailto:radwan@oaklandca.gov). Please note that e-Comment **submissions close at 4:30 pm**. All submitted public comment will be provided to the Commissioners prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled “Raise Hand In Webinar.”
- By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing STAR-NINE (“\*9”) to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting by Phone.”

If you have any questions about these protocols, please e-mail [opc@oaklandcommission.org](mailto:opc@oaklandcommission.org).

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### I. **Call to Order, Welcome, Roll Call and Determination of Quorum**

*Chair Tyfahra Milele*

*Roll Call: Vice Chair Marsha Peterson; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Jesse Hsieh; Commissioner Regina Jackson, Commissioner David Jordan; Alternate Commissioner Angela Jackson-Castain; Alternate Commissioner Karely Ordaz*

### II. **Open Forum** (2 minutes per speaker, 15 minutes total)

We will invite Members of the public wishing to address the Commission on matters that are not on tonight's agenda but are related to the Commission's work should raise their hands and they will be called on in the order their hands were raised. Comments regarding agenda items should be held until the agenda item is called for discussion.

### III. **Presentation and Possible Approval of Policy DGO K-6 (Department Rifles)**

The Commission will review and discuss Policy DGO K-6 (Department Rifles). ([Attachment 1](#)).

- a. Discussion
- b. Public Comment
- c. Action, if any

### IV. **Presentation and Possible Approval of Policy TB-III-H (Specialty Impact Munitions)**

The Commission will review and discuss Policy TB-III-H (Specialty Impact Munitions). ([Attachment 2](#)).

- a. Discussion
- b. Public Comment
- c. Action, if any

### V. **Presentation and Possible Approval of Policy TB III-P.04 (Armored Vehicles)**

The Commission will review and discuss Policy TB III-P.04 (Armored Vehicles). ([Attachment 3](#)).

- a. Discussion
- b. Public Comment
- c. Action, if any

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- VI. Presentation and Possible Approval of Policy TB III-G (Crowd Control and Crowd Management)**  
The Commission will review and discuss Policy TB III-G (Crowd Control and Crowd Management).  
*This is a new item. (Attachment 4).*
- a. Discussion
  - b. Public Comment
  - c. Action, if any
- VII. Presentation and Possible Approval of Policy TB V-F.02 (Chemical Agents + Impact Report)**  
The Commission will review and discuss Policy TB V-F.02 (Chemical Agents + Impact Report).  
*This is a new item. (Attachment 5).*
- a. Discussion
  - b. Public Comment
  - c. Action, if any
- VIII. Presentation and Possible Approval of Policy DGO I-26 (Ground Robots + Impact Report)**  
The Commission will review and discuss Policy DGO I-26 (Robots + Impact Report).  
*This is a new item. (Attachment 6).*
- a. Discussion
  - b. Public Comment
  - c. Action, if any
- IX. Presentation and Possible Approval of Policy DGO-I-25 (Unmanned Aerial Systems)**  
The Commission will review and discuss Policy DGO-I-25 (Unmanned Aerial Systems).  
*This is a new item. (Attachment 7).*
- a. Discussion
  - b. Public Comment
  - c. Action, if any
- X. Adjournment**

**NOTICE:** In compliance with the Americans with Disabilities Act, for those requiring special assistance to access the videoconference meeting, to access written documents being discussed at the Discipline Committee meeting, or to otherwise participate at Commission meetings, please contact the Police Commission's Chief of Staff, Kelly Yun, at [kyun@oaklandca.gov](mailto:kyun@oaklandca.gov) for assistance. Notification at least 48 hours before the meeting will enable the Police Commission to make reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids or services.

## **DEPARTMENT RIFLES**

The purpose of this order is to set forth Department policy and procedures to regulate the field deployment of Department Rifles and memorialization of their deployment; and establish selection, certification, and training protocols for Patrol Rifles issued to field officers within the Patrol Rifle Program (PRP).

### **I. VALUE STATEMENT**

Recognizing officers are not normally equipped to safely address threats from persons wearing body armor, are at distances beyond the effective range of standard-issue pistols and shotguns, and encounter subjects armed with various firearms, the Department has implemented specially-trained Patrol Rifle Officers (PRO) who, along with qualified Tactical Operations Team members, may deploy rifles to enhance officer and public safety. The field deployment of any rifle shall be in accordance with the core values and mission of the Oakland Police Department.

### **II. DEFINITIONS**

#### **A. Department Rifle**

The collective term for either a Patrol or Tactical Team Rifle.

#### **B. Patrol Rifle**

1. The department Patrol Rifle shall be an AR-15 semi-automatic carbine, utilizing .223 caliber/5.56 mm ammunition.

a. The present Patrol Rifle is the Colt LE6920 Rifle.

- b. New or replacement Patrol Rifles shall be approved by the Patrol Rifle Program Instructor Staff, and pass requisite departmental approval before implementation.

C. Tactical Team Rifles

Members of the Entry and Sniper elements of the Tactical Operations Team utilize either AR or manual bolt action rifles.

1. The Tactical Team AR Rifle, as utilized by Entry and Sniper Team members, shall be an AR-15 semi-automatic carbine, utilizing .223 caliber/5.56 mm ammunition.
  - a. The present Tactical Team AR Rifles are the BCM CQB MCMR 11 Rifle, the Noveske N4 Rifle, and the Colt LE6920 Rifle.
  - b. New or replacement Tactical Team AR Rifles shall be approved by the Entry/Sniper Tactical Team Leaders, and pass requisite departmental approval before implementation.
2. The Sniper Rifle shall be either a manual bolt-action rifle or AR-10 semi-automatic carbine, utilizing .308 Winchester ammunition.
  - a. The present Sniper Rifles are the GA Precision Bolt Action .308 Win Rifle and the Seekins Precision SP10 AR-10.
  - b. New or replacement Sniper Rifles shall be approved by the Sniper Team Leaders, and pass requisite departmental approval before implementation.
3. Entry and Sniper Team members may utilize privately-owned AR-15 carbine rifles, or manual bolt-action or AR-10 Sniper Rifles (Sniper Team members only).
  - a. Privately-owned rifles shall be approved for use by the operator's respective Tactical Team Leader(s).
  - b. Operators utilizing a privately-owned rifle must pass the current team marksmanship qualification before deploying with the rifle in the field.
  - c. Privately-owned rifles used in place of Department Rifles shall be subject to this order and all related orders in the

same fashion as Department Rifles. References in this order to Department Rifles categorically include authorized privately-owned rifles.

D. Patrol Rifle Program (PRP) Instructor Staff

Certified firearms instructors responsible for coordinating and providing selection and training for Patrol Rifle Officers in the Patrol Rifle Program, and collecting and reporting requisite statistics and data as required by the department.

E. Patrol Rifle Officer (PRO)

An officer that has successfully completed the selection and training process described in this order that has been issued a Patrol Rifle and is current on all training and qualifications set by the PRP Instructor Staff.

### III. POLICY

- A. Only PROs and Entry and Sniper Team members shall be authorized to deploy Department Rifles (Patrol Rifle, Tactical Team AR Rifle, or Sniper Rifle) per section IX of this order.
- B. Discharge and/or deployment of a Department Rifle shall be in accordance with the provisions of Departmental General Order K-3, USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable. Officers discharging a rifle must be able to articulate clearly the reasons for the use of lethal force, including whether the officer's life or the lives of others were in immediate peril and if there was no reasonable alternative.
- C. Discharge and/or deployment of a Department Rifle shall be reported in accordance with the provisions of Departmental General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable.
- D. To ensure members of the Patrol Rifle Program maintain skill levels required by the Department, PROs shall successfully complete an initial Departmental training course, and additional training as determined by the PRP Instructor Staff (see section XIV).

- E. Entry and Sniper Team members shall be required to complete a respective Tactical Operations Entry or Sniper School, along with requisite training as determined by the respective element's Tactical Team Leaders.

#### **IV. PATROL RIFLE PROGRAM ORGANIZATION**

The PRP is designed to regulate the use of the Patrol Rifle, train PROs, and provide the Department with an additional tool to enhance officer and public safety. The PRP is not an organizational unit. Members are assigned to uniformed, field-based assignments, primarily the Patrol Division, to ensure appropriate coverage of the city. They shall report to their assigned supervisors within their normal chain-of-command.

#### **V. RESPONSIBILITIES OF THE PATROL RIFLE PROGRAM INSTRUCTOR STAFF**

Designees of the PRP Instructor Staff shall report directly to the Special Operations Section Commander regarding all matters concerning the PRP. The PRP Instructor Staff shall:

- A. Coordinate the selection process of all PROs.
- B. Coordinate all PRO training.
- C. Gather and maintain PRO deployment data.
- D. Issue and recover Patrol Rifles as necessary.
- E. Ensure maintenance of the Patrol Rifle, beyond operator-level maintenance and cleaning, is performed by a certified Department AR armorer.

#### **VI. PATROL RIFLE PROGRAM INSTRUCTOR STAFF CRITERIA**

Members of the PRP Instructor Staff shall minimally meet the following criteria:

- A. Successfully complete a POST-certified Firearms Instructor School.
- B. Successfully complete a POST-certified Patrol Rifle Instructor School.
- C. Successfully complete a manufacturer's or equivalent AR armorer course.
- D. Appointees shall be designated by the existing PRP Instructor Staff.



Adjunct instructors not meeting the above criteria may assist with PRO training under the approval and supervision of the PRP Instructor Staff.

## **VII. PATROL RIFLE OFFICER SELECTION**

- A. Officers requesting assignment as a PRO shall submit a memorandum through their chain of command (to the level of their Bureau Deputy Chief) to the PRP Instructor Staff.
- B. The PRP Instructor Staff shall maintain submitted requests for use in the selection process.
- C. The requesting officer's supervisor shall:
  - 1. Review the memorandum based on the criteria set forth herein.
  - 2. Submit the memorandum for review and endorsement through their chain-of-command (up to the Area Captain) to the PRP Instructor Staff.
- D. Prospective PRO candidates shall meet the following minimum qualification criteria:
  - 1. Full-time sworn member (non-probationary) at the rank of officer, assigned to a field-based, uniformed assignment with a minimum of one (year) of Patrol duty experience, unless prior relevant training/experience is present as determined by the PRP Instructor Staff.
  - 2. Exhibit the ability to work independently and with minimal supervision.
  - 3. Exhibit the ability to maintain a calm, professional demeanor while making sound decisions during stressful situations.
  - 4. Exhibit the ability to properly apply the principles of de-escalation and an understanding of the Department's Mission, Purpose, and Core Principles surrounding use of force.<sup>1</sup>

<sup>1</sup> Reference DGO K-03, *Use of Force*, section A.

5. Exhibit the ability to communicate professionally with the public.
  6. Exhibit an ability to render effective testimony in court.
  7. Exhibit proficiency in report writing.
- E. All candidates meeting the above criteria shall participate in the remaining selection process.
- F. The selection process for all PROs shall include:
1. Selection Panel  

The PRP Instructor Staff shall convene an oral board selection panel to personally interview each candidate. The interview shall address Departmental policies, tactics, and the candidate's motivation, judgment, and leadership abilities.
  2. Reality-based Scenario Test  

The PRP Instructor Staff shall design a reality-based training scenario for the candidates in which the candidates' tactics, demeanor, de-escalation skills, communication skills, leadership abilities, and decision-making are evaluated.
  3. Physical Agility Test  

The physical agility test consists of a series of events designed to evaluate strength, agility, and endurance as determined by the PRP Instructor Staff.
  4. Rifle Marksmanship Test  

Candidates must demonstrate accuracy in shooting the Patrol Rifle, as determined by the PRP Instructor Staff.
  5. Pistol Marksmanship Test  

Candidates must demonstrate accuracy in shooting the pistol, as determined by the PRP Instructor Staff.

6. Departmental Work History Evaluation (Matrix) prepared by the PRP Instructor Staff. The candidate shall be evaluated on:
  - a. Performance appraisals
  - b. IAD sustained findings
  - c. Preventable vehicle collisions
  - d. Sick and injury record
  - e. Out of compliance uses of force
  - f. Disciplinary history
  - g. Patrol duty experience
  - h. Overall officer experience
  - i. Law Records Management Systems (LRMS) review

7. Other

Additional relevant information may also be considered (e.g., letters of appreciation, training, self-improvement, military experience, and firearm-related experience).

- G. The PRP Instructor Staff shall prepare a list of candidates based on the following:
  1. Overall evaluation of "Pass."
  2. Ranking based on selection process scores.
  3. The Department's operational needs for PROs, based on Patrol Rifle availability, and geographic and temporal coverage throughout the City. Priority shall be given to PRO assignments in the Patrol Division.
  4. The PRP Instructor Staff shall determine the number of candidates that will attend the Department Patrol Rifle School, based on factors such as rifle availability, range availability and size, and instructor availability. The PRP Instructor Staff may elect to include more candidates in a school than there are available rifles in order to account for future program attrition and the establishment of a list of qualified Patrol Rifle Officers pending issuance of a Patrol Rifle.
  5. Officers who successfully complete the Patrol Rifle School and are issued a Patrol Rifle shall be certified as PROs. Those successfully

completing the Patrol Rifle School that are not issued a Patrol Rifle due to equipment shortages shall, at the discretion of the PRP Instructor Staff, be included in future PRO training to maintain certification status until a Patrol Rifle can be issued to them.

## **VIII. PATROL RIFLE ASSIGNMENT**

Patrol Rifle Officers assigned to the Patrol Division shall not select their Patrol Division assignments based on their PRO status.

## **IX. AUTHORIZED DEPLOYMENT**

The purpose of deploying a Department Rifle is to enhance officer and public safety against actual or potential threats beyond those which normally-equipped field officers may encounter. Deploying members must be able to articulate how deployment of a rifle provides a distinct tactical advantage in favor of officer and public safety.

In line with Departmental General Order K-03, USE OF FORCE, a rifle may only be deployed when the officer reasonably believes it is necessary for his or her own safety or the safety of others. The deployment of a rifle by law enforcement officers can be perceived as threatening and intimidating and, when unwarranted, may cast a negative impression on officers.

When safe, feasible, and without compromising law enforcement priorities, officers shall use de-escalation tactics and techniques in order to reduce the need for force. The goal of the Department is to promote thoughtful resolutions to situations and to reduce the likelihood of harm to all persons.

- A. Officers equipped with rifles shall adhere to the fundamental rules of firearms safety:
1. Treat every firearm as if it is loaded.
  2. Always keep the firearm pointed in a safe direction.
  3. Keep your finger out of the trigger guard and off the trigger until you have made the conscious decision to fire.
  4. Be aware of your target and the area around it.

- B. The following factors shall be considered prior to deploying a Department Rifle:
1. The engaged person is known to possess or is suspected to possess a deadly weapon or firearm.
  2. The engaged person is beyond the effective range of Departmental pistols or shotguns (generally within 25 yards).  
  
Effective shooting ranges vary. Factors evaluating effective shooting ranges for any firearm include, but are not limited to: the subject or target area/size, terrain, stability in stance or shooting platform, shooting position, shooter and/or target movement, marksmanship proficiency, and stress. Distance is one factor in the totality of circumstances in determining rifle use.
  3. The engaged person is known to be wearing or is suspected of wearing body armor.

The above is not an exhaustive list of circumstances under which a rifle may be deployed, nor are the points necessarily automatic grounds for rifle deployment. The tactical need to deploy is based on the totality of circumstances, and the deploying member must be able to articulate the reasonable need to deploy.

- C. The deployment of a Department Rifle follows the same reporting criteria as other firearms regarding the KDE disposition code.
- D. Patrol Rifle Officers shall not be deployed as a substitute for use of the Department Tactical Operations Team (refer to Departmental General Order K-5, TACTICAL OPERATIONS TEAM).
- E. When a member is directed to deploy his/her rifle in what is believed to be an inappropriate circumstance, he/she shall advise the directing supervisor/commander prior to deploying. There may be instances in which the supervisor/commander has additional information to which the rifle officer is unaware, and time may not allow for an explanation of the circumstances before a rifle is deployed. When practical, the officer and supervisor/commander should brief the situation together. Though an officer may be directed to deploy their rifle, the discharge of a rifle shall still be in accordance with the provisions of Departmental General Order K-

3, USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable.

Any such deployment in this subsection must still be memorialized per section XII of this order.

- F. Department Rifles shall only be discharged during actual duty deployment or at a firearms range that can accommodate rifle fire.
- G. Entry and Sniper Team members may deploy Tactical Team AR Rifles in the field during a Tactical Operations Team activation, or absent a Tactical Operations Team activation if the above-listed criteria in this section is met.
- H. Sniper Rifles may be deployed during a Tactical Operations Team activation, or absent a Tactical Operations Team activation, if the criteria in this section is met and the necessity for long-distance armed cover—beyond the capabilities of the Tactical Team AR Rifle—is required.
- I. Rifles shall be returned to the vehicle or place of storage as soon as practical after the purpose for deployment has been resolved (e.g., a yard search for a person has been completed, the person who was being sought or detained has been secured, etc.).

## **X. MODIFICATIONS**

- A. Modifications to a Patrol Rifle (to include altering components, replacing them with alternative components, and additions to the rifle) are prohibited unless approved by the Patrol Rifle Program Instructor Staff and shall only be completed by a member of the staff. The following list, though not exhaustive, are components under which this section applies:
  - 1. Trigger assembly/mechanism
  - 2. Bolt carrier group, to include the bolt and firing pin
  - 3. Lower receiver, to include the stock, buffer, and buffer spring
  - 4. Upper receiver, to include the barrel, gas block and tube, and forend
  - 5. Mechanical sights

6. Red dot optic
- B. The following components are department-issued, but may be replaced on a Patrol Rifle with approval and inspection by the Patrol Rifle Program Instructor Staff:
5. Sling
  6. Flashlight and mount
  7. Charging handle
- C. Handguard grips and handstops may be attached to the forend of a Patrol Rifle only with approval, inspection, and installation by a member of the Patrol Rifle Program Instructor Staff.
- D. The above subsections (A-C) are not exhaustive component lists under which this policy applies. Any modification to a Patrol Rifle shall first be approved by the Patrol Rifle Program Instructor Staff, and may not, in any way, change the functionality of a rifle so as to make it fire in a method beyond the semi-automatic platform for which it was designed. Any modification or component that allows burst or fully-automatic firing is prohibited.
- E. Modifications to any Tactical Team Rifle (to include altering components, replacing them with alternative components, and additions to the rifle) are prohibited unless approved and inspected by a Tactical Team Leader. Modifications may not, in any way, change the functionality of a rifle so as to make it fire in a method beyond the semi-automatic (or manual bolt-action) platform for which it was designed. Any modification or component that allows burst or fully-automatic firing is prohibited.
- F. No attachments that, by design, are considered weapons (e.g., bayonets, separate launchers, etc.) may be attached to any rifle.
- G. Personal magazine rifles may be used upon approval and inspection by the Patrol Rifle Program Instructor Staff (for Patrol Rifles) or a Tactical Team Leader (for Tactical Team Rifles). Marking magazines beyond the operator's name, serial number, or alpha-numeric numbering to differentiate magazines is prohibited.

- H. Morale patches or aftermarket emblems, stickers, tokens, or other artifacts shall not be attached or affixed to any rifle or magazine.

## **XI. PROHIBITED USES**

Department Rifle deployment, to include privately-owned rifles deployed for departmental purposes, under conditions beyond those listed in section IX of this order are prohibited. Examples of prohibited deployments include, but are not limited to:

- A. During non-high-risk vehicle or pedestrian stops. High-risk stops are generally those involving a person or persons suspected of having committed a serious crime, or presenting an immediate or anticipated threat necessitating having armed cover throughout the detention process until the subject is handcuffed and otherwise deemed safely detained. Absent these circumstances, rifles should not be deployed during these stops.
- B. During routine patrol with no specific threat or articulable facts, as outlined in section IX, leading to the deployment of a rifle.
- C. Rifles shall not be slung and carried as a matter of course during an incident if deployment is not reasonably required or reasonably pending.
- D. Rifles shall not be used to dispatch<sup>2</sup> a dangerous animal, except when a Departmental pistol or shotgun is inappropriate (e.g., distance, type of animal, etc.).
- E. Rifles shall not be used as impact weapons, unless any of the following circumstances exist (Department General Order K-3, USE OF FORCE):
  - 1. When an officer reasonably believes and can articulate that a person is attempting to take the rifle away from the officer;
  - 2. When lethal force is permitted; or
  - 3. When using specific defensive tactics muzzle strikes as taught by the PRP Instructor Staff, Entry or Sniper Tactical Team Leaders, or Firearms training staff.

<sup>2</sup> Reference DGO K-03, Section H-07 for rules on discharging firearms at animals.



## **XII. RIFLE LOGS AND DEPARTMENT RIFLE USE REPORTING**

- A. Rifle deployments shall be documented in the Patrol Rifle Log Book assigned to that rifle, or by other means insomuch that the required data in subsection D are memorialized, and may be submitted as required to the PRP Instructor Staff (for PROs) or Tactical Team Leader (for Entry and Sniper Team members).
- B. Department rifle training shall also be logged for the purposes of memorializing rifle round counts and any significant maintenance.
- C. Each PRO shall submit his/her rifle deployments, round count, and maintenance entries to the PRP Instructor Staff on a quarterly basis.
- D. Each deployment log entry shall minimally include:
  - 1. The associated incident and RD number.
  - 2. The location of the deployment (specific address or block, and Area).
  - 3. The date and time of the deployment.
  - 4. The associated crime or reason for the deployment.
- E. The PRP Instructor Staff shall review and consolidate all PRO logs on a quarterly basis, and prepare and forward a quarterly report listing rifle deployment data in subsection D to the Special Operations Section Commander.
- F. After a Tactical Operations Team activation, deployments of Entry and Sniper Team rifles shall be reported by the respective element's Team Leaders to the Tactical Operations Support Team (TOST).
- G. Entry and Sniper Team members deploying rifles in the field during non-Tactical Operations Team activations shall maintain a deployment log as listed above, which shall be reviewed by the respective element's Team Leaders and reported quarterly to the Special Operations Section Commander.

- H. Personally-owned rifle deployments shall be memorialized categorically by type (i.e., as an AR-15, AR-10 sniper rifle, or manual bolt-action sniper rifle) for the purposes of reporting the deployment of military equipment.

### **XIII. STORAGE AND SECURITY**

- A. When on-duty, PROs shall store their Patrol Rifles in one (1) of two (2) conditions:
  - 1. In a gun case in the locked trunk or rear locked storage compartment of their assigned police vehicle.
  - 2. Locked in the designated rifle rack of a police vehicle.
- B. In either situation above, the rifle shall be in the following condition:
  - 1. Safety placed on “Safe.”
  - 2. Bolt/carrier group closed/forward on an empty chamber.
  - 3. Loaded magazine fully inserted into the magazine well. This is not required if the trunk or rear locked storage compartment of the vehicle does not provide adequate space.
  - 4. Dust cover is closed.
- C. At the end of a PRO’s shift, the Patrol Rifle shall be stored in a secure location with restricted access (e.g., locker, secured cabinet).
- D. A PRO may take his/her Patrol Rifle home at the end of their shift if they are adequately secured at their residence.
- E. Patrol Rifles shall not be stored in a privately-owned vehicle except when traveling to and from work and home, or to and from training.
- F. In addition to the above, Tactical Team Rifles may also be stored in their respective team’s equipment vehicle.

### **XIV. TRAINING AND QUALIFICATION**

- A. Patrol Rifle Officers shall attend quarterly marksmanship training and undergo physical fitness, shooting, and decision-making evaluations (qualifications).
- B. The PRP Instructor Staff shall document and maintain training and qualification records for all PROs.
- C. Entry and Sniper Team members are required to attend training as required by the Tactical Operations Team, with training records maintained by the respective element's Team Leaders. Refer to Departmental General Order K-5, TACTICAL OPERATIONS TEAM.

#### **XV. DECERTIFICATION OF PATROL RIFLE OFFICERS**

- A. Removal from the PRO Program shall occur automatically when a member is promoted to a rank other than Police Officer or is permanently transferred to a non-field-based assignment.
- B. A PRO may voluntarily resign from the program by submitting a memorandum to the PRP Instructor Staff.
- C. The PRP Instructor Staff may decertify a PRO for any of the following reasons:
  - 1. Substandard performance.
  - 2. Failure to successfully complete required training.
  - 3. Failure to progress at training.
  - 4. Any documented willful and deliberate mistreatment, neglect, or improper use of the Patrol Rifle.
  - 5. Failure to satisfactorily complete a physical fitness, shooting, or reality-based training proficiency evaluation and subsequent remediation.
  - 6. Exhibiting a pattern of unsafe tactics during actual Patrol Rifle deployments.
  - 7. Failure to comply with the provisions of this order.

- D. The PRP Instructor Staff shall submit a memorandum documenting the circumstances which led to the decertification to the BFO Deputy Chief, the PRO's immediate supervisor, first-level Commander, and Area Commander.
- E. The PRP Instructor Staff shall consult with the BFO Deputy Chief to determine if remedial training would rectify the problem(s) or if the PRO is to be immediately removed from the program.
- F. Any PRO removed from the program shall immediately surrender his/her Patrol Rifle to a PRP Instructor Staff member or member of the Range Staff.
- G. Remedial Training
  - 1. In the event remedial training is prescribed, the PRP Instructor Staff shall schedule the appropriate training with the subject PRO.
  - 2. The PRP Instructor Staff shall notify the BFO Deputy Chief of the satisfactory completion of the remedial training with a recommendation for recertification.
  - 3. Upon positive endorsement from the BFO Deputy Chief, the PRP Instructor Staff shall notify the subject PRO and his/her immediate supervisor of the recertification.
  - 4. If remedial training has not been satisfactorily completed, the PRP Instructor Staff shall forward a memorandum through channels to the BFO Deputy Chief detailing the remedial training provided and the PRO's failure to satisfactorily complete the training, and shall recommend the removal of the PRO from the program.
  - 5. Upon the negative endorsement from the BFO Deputy Chief, the PRP Instructor Staff shall notify the subject PRO and his/her immediate supervisor of the removal from the program.
- H. A PRO who is decertified for unacceptable performance or conduct shall have the right to appeal that action in the same manner and within the same time frames as a member may appeal a Performance Appraisal Report, with

the final determination made by the Chief of Police.

- I. Refer to Departmental General Order K-5, TACTICAL OPERATIONS TEAM, for member decertification.

## **XVI. INQUIRY AND COMPLAINT PROCESS**

*(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.*

The Oakland Police Department DGO M-3, COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.

By Order of

LeRonne L. Armstrong  
Chief of Police

Date Signed: \_\_\_\_\_

## **Description and Purpose**

<b>Colt LE6920 AR-15 Rifle</b>	
<b>Description</b>	A semi-automatic shoulder-fired long gun that fires a rifle caliber cartridge. The Department-approved AR15 style weapon system is designed to fire a .223/5.56 caliber projectile.
<b>Manufacturer's Product Description</b>	Colt's reliability, performance, and accuracy provide our Armed Forces the confidence required to accomplish any mission. Colt's LE6920 series shares many features of its combat proven brother, the Colt M4.
<b>Capabilities / How the item works</b>	This is a direct-impingement, AR-15 pattern center-fire semi-automatic rifle, capable of firing a .223 round and striking a target at ranges up to 200 yards in the hands of a trained operator.
<b>Expected lifespan</b>	Barrel life approximately 15K rounds; with care, item can last up to 30 years.
<b>Quantity</b>	72 owned
<b>Purpose and intended uses and/or effects</b>	Recognizing that officers are not normally equipped to safely address threats from persons wearing body armor and/or who are at distances beyond the effective range of standard issue police pistols and shotguns, the PRP has been implemented to address such threats and enhance police officer and public safety.

<b>Noveske N4</b>	
<b>Description</b>	A semi-automatic shoulder-fired long gun that fires a rifle caliber cartridge. The Department-approved AR15 style weapon system is designed to fire a .223/5.56 caliber projectile.
<b>Manufacturer's Product Description</b>	<ul style="list-style-type: none"> <li>• Action: Gas Operated Semi-Auto</li> <li>• Air cooled</li> <li>• Magazine feed</li> <li>• Barrel Length: 10.5", stainless steel</li> <li>• Chambered in 5.56</li> <li>• Capacity: 30+1</li> </ul>
<b>Capabilities / How the item works</b>	This is a direct-impingement, AR-15 pattern center-fire semi-automatic rifle, capable of firing a .223 round and striking a target at ranges up to 200 yards in the hands of a trained operator.
<b>Expected lifespan</b>	Barrel life approximately 15K rounds; with care item can last up to 30 years.
<b>Quantity</b>	25 owned

<b>Purpose and intended uses and/or effects</b>	The Tactical Operations Team may be activated at the discretion of the Patrol Division Watch Commander, or an Area Commander who is on the scene and assumes Incident Command. This is covered in Oakland Police Policy DGO K-5. Tactical team entry element operators are assigned these rifles.
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<b>Bravo Company Manufacturing (BCM CQU MCMR 11)</b>	
<b>Description</b>	A semi-automatic shoulder-fired long gun that fires a rifle caliber cartridge. The Department-approved AR15 style weapon system is designed to fire a .223/5.56 caliber projectile.
<b>Manufacturer's Product Description</b>	<ul style="list-style-type: none"> <li>• Action: Gas Operated Semi-Auto</li> <li>• Air cooled</li> <li>• Magazine feed</li> <li>• Barrel Length: 10.5", stainless steel</li> <li>• Chambered in 5.56</li> <li>• Capacity: 30+1</li> </ul>
<b>Capabilities / How the item works</b>	This is a direct-impingement, AR-15 pattern center-fire semi-automatic rifle, capable of firing a .223 round and striking a target at ranges up to 200 yards in the hands of a trained operator.
<b>Expected lifespan</b>	Barrel life approximately 15K rounds; with care item can last up to 30 years.
<b>Quantity</b>	30 owned
<b>Purpose and intended uses and/or effects</b>	The Tactical Operations Team may be activated at the discretion of the Patrol Division Watch Commander, or an Area Commander who is on the scene and assumes Incident Command. This is covered in Oakland Police Policy DGO K-5. Tactical team entry element operators are assigned these rifles.

<b>GA Precision Bolt Action .308 Win Rifle</b>	
<b>Description</b>	The rifle has a 22" barrel, internal magazine (four round capacity), manual safety selector switch, and manual bolt action. The rifle is chambered for .308 Win ammunition.
<b>Manufacturer's Product Description</b>	The rifle is a custom GA Precision product built for Oakland PD, based on their Crusader model. It is built off of the Remington 700 short-action receiver platform, but manufactured and outfit by GA Precision, using a variety of components from different manufacturers. The barrel is manufactured by Broughton; it is 22" long, fluted, and has a 1/11.25" twist. The rifle stock is manufactured by Manner. The trigger group is a custom build by GA Precision. The scopes are manufactured by Nightforce (NX8), with Badger Ordnance scope rings and bases. The bipods are manufactured by Harris. The rifles were built from different components, but serialized under GA Precision.

<b>Capabilities / How the item works</b>	Bolt-action centerfire rifle, capable of firing a .308 round and striking a target at ranges up to 1000 yards in the hands of a trained operator.
<b>Expected lifespan</b>	None indicated, but with care item can last up to 30 years.
<b>Quantity</b>	12 owned
<b>Purpose and intended uses and/or effects</b>	The Tactical Operations Team may be activated at the discretion of the Patrol Division Watch Commander, or an Area Commander who is on the scene and assumes Incident Command. GA Precision Bolt Action .308 Win Rifles are assigned to the Sniper element of the Tactical Operations Team.

<b>Speer LE Gold Dot .223 75 Grain Ammunition</b>	
<b>Description</b>	.223 caliber centerfire rifle ammunition for AR-15 pattern rifles.
<b>Manufacturer's Product Description</b>	SPEER LE Gold Dot Duty Rifle brings proven bullet technology to rifle platform. The Gold Dot bullet was the first high performance, bonded-core bullet available in handgun ammunition, and has since set the bar for duty ammunition. The nation's number one law enforcement option is now available in rifle ammunition for agencies everywhere. Gold Dot rifle bullets are optimized to ensure expansion out of barrels down to 10" at a wide variety of velocities out to 200 yards.
<b>Capabilities / How the item works</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel. Depending on the rifle through which it was fired, a .223 caliber round is capable of causing great bodily injury or death through a combination of temporary and permanent wound cavities.
<b>Expected lifespan</b>	~10 years
<b>Quantity</b>	~10 cases owned
<b>Purpose and intended uses and/or effects</b>	.223 caliber or 5.56mm rifle ammunition used in conjunction with an AR-15 type rifle provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns.

<b>Federal .223 55 Grain Ammunition</b>	
<b>Description</b>	.223 caliber centerfire rifle ammunition for AR-15 pattern rifles.
<b>Manufacturer's Product Description</b>	American Eagle® rifle ammunition offers consistent, accurate performance at a price that's perfect for high-volume shooting. The loads feature quality bullets, reloadable brass cases and dependable primers. <ul style="list-style-type: none"> <li>• Ideal for target practice</li> <li>• Accurate and reliable</li> <li>• Consistent primers and brass</li> </ul>



<b>Capabilities / How the item works</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel. Depending on the rifle through which it was fired, a .223 caliber round is capable of causing great bodily injury or death through a combination of temporary and permanent wound cavities.
<b>Expected lifespan</b>	~10 years
<b>Quantity</b>	~30 cases owned
<b>Purpose and intended uses and/or effects</b>	.223 practice ammunition used in rifle training

#### **Winchester Ranger 556B 64 Grain Ammunition**

<b>Description</b>	5.56 caliber centerfire rifle ammunition for AR-15 pattern rifles.
<b>Manufacturer's Product Description</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel.
<b>Capabilities / How the item works</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel. Depending on the rifle through which it was fired, a .223 caliber round is capable of causing great bodily injury or death through a combination of temporary and permanent wound cavities.
<b>Expected lifespan</b>	~10 years
<b>Quantity</b>	~10 cases
<b>Purpose and intended uses and/or effects</b>	5.56 ammunition used for training

#### **Federal Tactical Bonded 308 Win 165 Grain Ammunition**

<b>Description</b>	.308 caliber centerfire rifle ammunition
<b>Manufacturer's Product Description</b>	The Tactical Bonded line is a trusted partner for some of the most intense conditions. Made exclusively for law enforcement, it achieves accuracy and terminal performance that defeats tough barriers with minimal deviation.

<b>Capabilities / How the item works</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel. Depending on the rifle through which it was fired, a .308 caliber round is capable of causing great bodily injury or death through a combination of temporary and permanent wound cavities.
<b>Expected lifespan</b>	10 years
<b>Quantity</b>	~12 cases
<b>Purpose and intended uses and/or effects</b>	Training and deployment round for the OPD sniper rifle. It affords the ability to engage lethal threats with precision at long distances behind barriers such as glass.

<b>Hornady 308 WIN TAP 168 Grain Ammunition</b>	
<b>Description</b>	.308 caliber centerfire rifle ammunition
<b>Manufacturer's Product Description</b>	Hornady 308 WIN TAP 168 gr. ELD MATCH TAP PRECISION ammunition was designed as an improvement on the 168 gr. A-MAX TAP PRECISION load by incorporating the new ELD Match bullet. The 168 gr. ELD Match bullet with Heat Shield tip delivers the excellent terminal performance TAP Precision is known for, but features a resilient, heat resistant polymer tip that improves the ballistic coefficient, resulting in higher impact velocities, less drop, less wind drift, and more energy on target.
<b>Capabilities / How the item works</b>	Rifle cartridge – when the trigger for the firearm is pulled, the firing pin strikes the primer which in turn ignites the gunpowder inside the casing. The bullet is propelled forward out the end of the barrel. Depending on the rifle through which it was fired, a .308 caliber round is capable of causing great bodily injury or death through a combination of temporary and permanent wound cavities.
<b>Expected lifespan</b>	10 years
<b>Quantity</b>	~33 cases
<b>Purpose and intended uses and/or effects</b>	Training and deployment round for the OPD sniper rifle. It affords the ability to engage lethal threats with precision at long distances behind barriers such as glass.

<b>Remington 700 Rifle</b>	
<b>Description</b>	Bolt-action .308 caliber rifle.

<b>Manufacturer's Product Description</b>	<p>The Model 700 SPS Tactical is a highly maneuverable member of the family. It's built for tack-driving accuracy with a 20" heavy-contour tactical-style barrel and dual-point pillar bedding in its black synthetic stock. Hogue® overmoldings on the stock facilitate sure handling, and it has a semi-beavertail fore-end for added stability off a rest.</p> <ul style="list-style-type: none"> <li>• 20" heavy barrel</li> <li>• X-Mark Pro® externally adjustable trigger</li> <li>• Hogue® overmolded pillar-bedded stock</li> <li>• Durable satin black oxide metal finish</li> <li>• Hinged floorplate magazine</li> <li>• Select models - SKU's 84205 and 85538, feature 5/8x24 threaded muzzles with thread protectors, ready to accept a range of muzzle devices or silencers.</li> <li>• SuperCell® Recoil Pad</li> </ul>
<b>Capabilities / How the item works</b>	Bolt-action centerfire rifle, capable of firing a .308 round and striking a target at ranges up to 1000 yards in the hands of a trained operator.
<b>Expected lifespan</b>	None indicated, but with care item can last over 30 years.
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Last example of the previously issued rifle for the Sniper Team. Replaced by GA Precision rifles, above. Kept for training and testing purposes.

<b>Seekins Precision SP10 Rifle</b>	
<b>Description</b>	AR-10 pattern semi-automatic .308 caliber rifle
<b>Manufacturer's Product Description</b>	<p>The SP10 has been specifically designed and tested for our nation's most elite Special Operations warriors. The SP10's proprietary design of the upper receiver and handguard provides a rigid, no-flex platform for repeatable, extreme accuracy under any condition. The SP10 lower receiver offers full ambidextrous controls allowing effective, efficient manipulation of the weapon from either side. The SP10 is the perfect large-frame AR platform for hunting, competition, or duty use. NOW AVAILABLE in 7 semi-custom color options to match your specific needs.</p> <p><b>Calibers:</b></p> <ul style="list-style-type: none"> <li>• 6 Creedmoor/ 1:8 twist</li> <li>• 6.5 Creedmoor/ 1:8 twist</li> </ul>

	<ul style="list-style-type: none"> <li>.308/ 1:11.25</li> </ul> <p><b>Specs:</b></p> <ul style="list-style-type: none"> <li>Weight: 10.5lbs</li> <li>Barrel: .308 18"; 6 &amp; 6.5 Creedmoor 22" 5R 416 Stainless Steel</li> <li>Receivers: IRMT Upper/SP10 Lower 7075-T6 billet</li> <li>Handguard: 15" SP3R MLOK</li> <li>Gas Block: Seekins Low Profile Adjustable Gas Block</li> <li>Trigger: Timney trigger, single stage set at 3lbs</li> <li>Colors: Armorer Black, FDE, OD Green, Sniper Gray, Battle Worn FDE, Battle Worn OD Green</li> <li>Finish: Black oxide coating</li> <li>Stock: Seekins 10X</li> <li>Muzzle Device: Seekins ATC brake 5/8X24</li> </ul>
<b>Capabilities / How the item works</b>	Semi-automatic AR-10 pattern rifle, capable of firing a .308 round and striking a target at ranges up to 1000 yards in the hands of a trained operator.
<b>Expected lifespan</b>	None indicated, but with care item can last over 30 years.
<b>Quantity</b>	15 ordered
<b>Purpose and intended uses and/or effects</b>	Designed to augment or supplant bolt-action sniper rifles, the AR-10 rifle allows for the Department to use the superior ballistic performance of the .308 / 7.26 NATO cartridge for long-distance precision shooting while maintaining the abilities afforded by the semi-automatic AR-10 workings that provide benefits in follow-up shots if needed, ergonomics, and ease of maintenance. The Department's Seekins rifles will be customized with certain accessories (e.g., rifle scopes, handguards, or trigger assemblies) that do not alter the primary functions (semi-automatic only fire) of the rifle nor add additional weapons (e.g., bayonets, grenade launchers) to the rifle.

## **Fiscal Costs**

### ***Initial Costs***

The Oakland Police Department (OPD) currently owns/possesses/uses the equipment.

Initial costs of the items were approximately:

Item	Cost/Unit	Total Initial Cost for Owned Equipment
<b>Colt Rifle</b>	~\$1100/unit	~\$79,200
<b>Noveske Rifle</b>	~\$1500/unit	~\$37,500
<b>BCM Rifle</b>	~\$1400/unit	~\$42,000
<b>GA Precision Rifle</b>	~\$9000/unit	~\$108,000
<b>Remington 700 Rifle</b>	~\$1400/unit	~\$1,400
<b>Seekins Precision Rifle</b>	~\$6804.10/unit	\$102,061.50
<b>Speer .223 Ammunition</b>	\$315/case	~\$3,150
<b>Winchester 5.56 Ammunition</b>	\$300/case	~\$3,000
<b>Federal .223 Ammunition</b>	\$182/case	~\$5,460
<b>Federal .308 Ammunition</b>	\$499/case	~\$5,988
<b>Hornady .308 Ammunition</b>	\$215/case	~\$7,095

The Department also has ongoing costs related to the purchasing of ammunition; during a typical year every use of ammunition during the course of the year is during training.

There is no cost to the Department for any privately owned rifles. **NOTE:** Patrol rifle officers are not allowed to deploy privately-owned rifles in lieu of their issued patrol rifle. Only members of the Tactical Team who are trained and issued an AR-15 pattern rifle (Entry and Sniper Team) may deploy a privately-owned rifle that has been approved by their team leader. The majority of these members use the department's issued item.

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

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

Patrol rifles: Staff assigned patrol rifles are on-duty and respond during their normal shift.

Tactical team rifles: Staff assigned to the entry or sniper teams may be on duty during incidents requiring the tactical team. If they are, they may deploy as patrol officers and use their assigned rifles. For a tactical team call-out, other members of the team will respond even if they are off-duty, resulting in overtime expenditures. The amount of expenditure is based on the time the incident takes to resolve.

Cost of deployment / discharge: Beyond any regular or overtime staff costs (discussed above), the cost of deployment of these items is nominal; the rifle is typically stored in the officer's

patrol vehicle or in the equipment vehicle, so there is no added cost of transportation. For discharges, beyond the cost of each round of ammunition, there is the associated accumulation of maintenance costs (wear and tear) from utilizing the machine. As noted, barrels typically have a service life of around 15k rounds, after which they need to be replaced. While rare, the discharge of a patrol rifle to strike another person may have serious costs, including loss of life. Even justified uses of lethal force may result in costly litigation or other costs. These costs are likely similar to the costs anticipated with the discharge of an officer's service handgun at another.

### ***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 larger entry and exit wounds than from handgun bullets, more body tissue destruction; emotional trauma to vulnerable and/or minor bystanders; and potential litigation costs.

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

Costs for operation and training include ammunition – currently approximately \$40,000 per year.

Initial training for the patrol rifle program is a basic rifle school, which is 40 hours (one week). A typical school has about 10-12 candidates and 2-3 instructors, all of whom must be absent from their regular duties for that week where they are at the school. If that person works an essential job (e.g., as a patrol officer), then overtime expenditures may be used to “backfill” that person’s position if needed to achieve minimum staffing. Candidates in the patrol rifle school are on regular time when attending the school, instructors may be on overtime depending on their regular duty assignment.

Initial training for the Tactical Team Entry or Sniper element is a three-week (120 hour) school. A typical school has 5-10 candidates, 2-3 dedicated instructors, and uses additional instructors or personnel as needed (e.g., as role players for scenarios). Candidates in the Tactical Team school are on regular time when attending the school, instructors may be on overtime depending on their regular duty assignment. All candidates must be absent from their regular duty assignment during the school; if that person works an essential job (e.g., as a patrol officer), then overtime expenditures may be used to “backfill” that person’s position if needed to achieve minimum staffing.

Training costs also include rental of a range facility (typically around \$60/hour). The patrol rifle program has four days of training per quarter (~\$10k/yr range fees, 10 hours per officer), and the Tactical team typically rents a range at least once per month (~\$8000/yr, 10 hours per officer who attends training). Additionally, some training may either require the person attending training to be on overtime, or for overtime to backfill that person’s position while they are at training. Unknown yearly costs.

Maintenance and storage have costs – while the rifles have long lifespans, like any machine they occasionally need replacement of parts. Depending on the part, the cost per item can range from fractions of a dollar (for small springs) to several hundred dollars (for a new barrel). Storage is typically done in the Police buildings, but this comes with an opportunity cost for other storage.

Upgrade and replacement will typically require purchase of an entirely new rifle, at a cost of between \$1,000-\$9,000 depending on the model and capabilities. Rifle staff report replacing less than one (1) complete rifle per year; more typical is replacement of parts that may wear out or otherwise be on a replacement schedule, with funding for these expenditures coming from the Special Operations Division budget.

## **Impacts**

## ***Reasonably anticipated impacts***

### Deliberate misuse.

Though unlikely, it is possible that Department Rifles and Associated Ammunition 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.

Unintentional misuse of Department Rifles and Associated Ammunition 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 Department Rifles and Associated Ammunition 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 also recognizes that persons who have experienced these types of weapons in negative lights (e.g., having escaped from totalitarian countries with oppressive security forces, having been the victim of community violence where the perpetrators used these types of weapons, etc.) may feel triggered or mentally impacted by the sight of officers deploying or using these weapons. 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.

### Impact on unintended persons

Any time a firearm is discharged by law enforcement, there exists the possibility that the round will strike something or someone that is not the intended target. This impact is noticeably decreased in rifles as compared to duty handguns due to the inherent accuracy of



a shoulder-fired rifle compared to a handgun. However, this possibility exists and is remedied by training; patrol rifle officers train at least four times per year whereas Tactical Team members train at least once per month. Accuracy standards of at least 80% are adhered to during training and qualification, and members who do not pass qualification are either remedially trained until they can successfully complete the qualification (in the interim not able to deploy) or may be removed from the program entirely.

Additionally, the Department has instituted safeguards around limiting the amount of officers used as “armed cover” (having firearms ready to use as a lethal force option) during high-risk incident, as seen most notably in the Dedicated Arrest Team (DAT) policy (TB III-P.03). The Department places a large amount of emphasis on ensuring that supervisors and commanders limit the number of officers pointing firearms at any type to avoid issues such as sympathetic fire or a number of rounds fired that is disproportionate to the situation at hand.

Finally, the possibility exists that an errant round misses its intended target, passes through an obstacle (such as dry wall), and strikes another person. While the Department works hard to avoid this issue through selection, training, and qualification, the specific ammunition that the Department uses has a ballistic profile through common materials – such as drywall, sheet metal, or auto glass – that is similar to the duty handgun round.

#### Ballistic Differences in Rifle Rounds

The Department is aware of the differences in ballistics between duty handgun rounds (issued to every sworn officer) and rifle-caliber rounds. Rifle caliber rounds move at a much higher velocity, and when striking the human body may cause both temporary and permanent wound cavities that are larger than those caused by the handgun. However, the Department’s approach to all lethal force is one centered around the protection and sanctity of human life – such that the Department and its officers limit the reliance on force generally, and especially on lethal force, and the Department enacts strict training and controls around all force, with a focus on limiting lethal force as much as is possible.

## **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](#)***

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 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***

Every rifle used by the Department is semi-automatic – for each round fired, the trigger must be pulled. Though the AR-15 platform is capable of burst or even automatic fire, the Department specifically has not obtained rifles with this capacity to decrease the chances of accidental misuse or striking an unintended target. Additionally, every AR-15 patterned rifle has a manual safety which must be disengaged before the weapon is fired.

For the .223 ammunition that is issued for duty use by patrol rifle officers, the Department specifically chose the Speer LE Gold Dot round because the bullet is bonded, providing superior performance through thin barriers such as auto glass, which still reliably not over-penetrating when tested in gelatin ballistic blocks.

For the Department's .308 ammunition, the larger bullet may provide more energy on target. This ammunition is only used in the Department's sniper rifles, which all are modified with special purpose scopes that allow for the trained members of the sniper element to achieve a high degree of accuracy.

## ***Procedural safeguards***

Unlike other agencies, OPD does not issue every officer a patrol rifle. Through a rigorous selection process, OPD is able to control which officers are provided access to this tool. Additionally, selections to the Tactical Team are further vetted. Finally, all persons who deploy a rifle must attend both initial training (40 hours for PRO, 3 weeks for Tactical Team) and ongoing training in order to stay proficient.

During training, members do more than simply learn how to fire the rifle accurately; they also spend much of training on tactical scenarios designed to improve their judgment, de-escalation, and critical thinking skills. These include scenarios with “no-shoot” outcomes – where the exercise is designed to induce clear thinking under stress and proper threat assessment. A typical patrol rifle school involves approximately 2.5 of 5 days learning how to fire the rifle and preparing for a qualification and 2.5 of 5 days working on tactical decision making and skill building. Similarly, patrol rifle quarterly training typically involves half the day reinforcing accuracy and qualifying with the rifle and the other half engaging in tactics and scenarios. The Tactical Team typically breaks their twice/month training into one day of live fire with both rifle and handguns, and the other day of nothing but scenarios and decision-making exercises.

## **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.

There are other manufacturers of AR-15 pattern rifles, AR-10 pattern rifles, and bolt-action precision rifles. However, since these are standardized items, most items will have the same or similar capabilities.

## **Location**

Department Rifles and Associated Ammunition 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**

As noted, many other agencies issue patrol rifles to every sworn officer. The patrol rifle is an integral part of American law enforcement, mainly because the weapon system allows officers to keep distance and match firepower against weapons that are readily available to private citizens.

The City of Santa Rosa reports that they issue a patrol rifle as standard issue to every sworn officer and, as standard issue, do not report it pursuant to AB 481. The City of Santa Cruz also issues a patrol rifle to all officers, but they do report it pursuant to AB 481.

The City of Berkeley Police Department writes in its impact report regarding rifles that, “[t]he M4 patterned rifle, which fires the .223 Remington cartridge, is a superior firearm to stop a

lethal threat compared to the issued pistols to police officers, in that officers equipped with this firearm shoot less rounds, fire more accurately, and are less likely to fire errant rounds. Highly volatile and violent incidents, such as a hostage situation, can be more safely and efficiently resolved with a rifle.”

In the most recent data available (2022 deployments), OPD patrol rifle officers report 129 deployments across all areas of the city since January 2022 (since this is for individual deployments and many incidents involve more than one rifle officer on scene, this data likely represents less than 129 total incidents).

There have been no incidents of rifle discharge at persons during 2022. Since 2017, OPD has had at least four (4) lethal force incidents specifically involving rifles:

- In 2017, a person with a rifle was firing at community members and officers. The person was shot and killed by a tactical team member with a sniper rifle;
- In 2018, a person was reported to be armed with a firearm asleep between two buildings. The person was shot and killed by three patrol rifle officers and one tactical team officer with an AR-15 pattern Department rifle;
- In 2020, a person was in the midst of an armed robbery caravan; ran over and severely injured an officer using the vehicle. The person was shot and killed by a tactical team officer using a Department rifle;
- In 2021, officers were attempting to arrest a person with a warrant for a violent crime. During the arrest attempt, a tactical team officer shot the person with a Department rifle. The person survived.

The need for law enforcement to have access to precision rifles to counter armed persons has been shown in several incidents, such as the North Hollywood Shootout. Additionally, the proliferation of firearms in American society, especially since the pandemic, unfortunately requires that law enforcement be prepared to overcome persons armed with many different types of firearms.

# TRAINING



# BULLETIN

Effective Date:  
XX MMM 22

Index Number: III-H  
Alpha Index: Specialty Impact Munitions

Evaluation Coordinator: Training Division

*“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”*

## SPECIALTY IMPACT MUNITIONS

### Introduction

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.

This Training Bulletin is a supplemental to Department General Order K-3, USE OF FORCE, which is the master policy regarding the use of force. In addition to this policy, members shall have a complete and thorough understanding of DGO K-3, USE OF FORCE and TB III-H.2, HAND HELD IMPACT WEAPONS which outline, in part, when the use of an impact weapon is appropriate and objectively reasonable, criteria for consideration, definitions, force options and medical requirements.

### Purpose of Specialty Impact Munitions

Specialty Impact Munitions (SIM) are pieces of ammunition that are fired from either specifically-designed firearms (such as the 40mm launcher) or from firearms that can be utilized to fire the SIM ammunition (such as the 12 gauge shotgun). SIM are designed as less-lethal weapons; while these may cause injury, when used within the scope of law, policy, and manufacturer recommendations the likelihood of death or great bodily injury, while existent, is minimal.

SIM are impact weapons, and are an intermediate force option. Less-lethal weapons, such as SIM, are used to interrupt an engaged person’s threatening behavior so that officers may take physical control of the engaged person with less risk of injury to the engaged person or officer than posed by other force applications<sup>1</sup>. SIM specifically allow for the application of less-lethal intermediate force at a distance; distance, along with physical cover and other factors, can be used to enhance de-escalation efforts as well as the safety of the engaged person, officers, and the community during an incident. SIM are used when it is not safe for an officer to close on a physically violent person and try to control that person with physical strength and skill, or when a safe, standoff distance is needed. In addition, SIM may be used to further safe resolution of

<sup>1</sup> [DGO K-03](#), Section G-3.

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incidents by hitting or destroying items from a distance (e.g., windows or surveillance cameras) with minimal exposure of officers to dangerous conditions.

### **Authorized Use**

#### *General Use Requirements*

Only trained and currently qualified members are authorized to use SIM, and members are only authorized to use the specific SIM for which they have been trained.

#### *As a Use of Force*

Except during crowd control (when the use of SIM is severely restricted; reference TB III-G), less-lethal SIM shall only be used as a weapon against an engaged person when objectively reasonable, necessary, and proportional<sup>2</sup>. The use of SIM is an intermediate use of force<sup>3</sup> and is not authorized against persons who are only engaged in **non-compliance** or **passive resistance**. SIM use is intended to overcome **active** and **assaultive resistance**.<sup>4</sup>

“Reasonable force” is defined by law as that amount of force that is objectively reasonable to affect a lawful police purpose and protect the safety of officers or others based upon the totality of the circumstances.

The United States Supreme Court ruled in *Graham v. Connor* that force must be analyzed under the Fourth Amendment’s objectively reasonable test<sup>5</sup>. The application of this test requires an analysis of the totality of circumstances, including these factors to determine if the seizure is reasonable:

1. The severity of the crime at issue;
2. Whether the suspect poses an immediate threat to the safety of law enforcement officers or others; and
3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

The determination of reasonableness is not based on the 20/20 vision of hindsight.

#### *As a Distraction or to Target Objects*

All SIM specified in this policy may be used in non-Crowd Control or Crowd Management Operations as distraction devices or to destroy an object by firing against objects, (e.g., buildings, walls, doors, windows). Verbal notice to members and outside law enforcement agency personnel shall be made before their use as a distraction device or against an object.

<sup>2</sup> [DGO K-03](#), Section D-1.

<sup>3</sup> *Deorle v. Rutherford* 272 F.3d 1272,1279 (9<sup>th</sup> Cir. 2001)

<sup>4</sup> [DGO K-03](#), Section F-03.

<sup>5</sup> 490 U.S. 386 (1989)



### *Against Animals*

SIM may be used to subdue, distract or chase away vicious animals, but not to dispatch animals (see prohibited uses, below).

### **Lethal vs. Less-lethal**

The distinction between lethal force and less-lethal force is important.

“Less-lethal” force is defined as:

Any use of force, other than lethal force, which by design and application is less likely to cause great bodily injury or death. The possibility of an unintended lethal outcome, although very rare, still exists. SIM are less-lethal weapons. Refer to DGO K-3 for additional less-lethal force options.

### **Use of Direct Fired Specialty Impact Munitions (SIM)**

1. Direct Fired SIM are less-lethal specialty impact weapons that are designed to be direct fired at a specific target including but not limited to Drag Stabilized Flexible Batons (DSFB), often referred to as a "bean bags".
2. A member and/or supervisor on the scene, absent exigent circumstances, shall take reasonable steps to have the engaged person submit to police authority and issue a verbal warning before the use of SIM
3. Members shall, absent exigent circumstances, avoid intentionally targeting the upper chest. Impacts to center mass have the highest potential for immediate incapacitation, but also have the highest potential to cause serious internal injury or in some very rare instances, death.
4. Lethal force backup shall be in place prior to SIM usage, absent exigent circumstances.
5. Any person struck by SIM shall be transported to a hospital for observation and any necessary treatment. Ambulance service, if required, shall be ordered per Department General Order I-4, AMBULANCE SERVICE. First aid, when necessary, shall be administered per Training Bulletin III-K, FIRST AID. Members shall, absent exigent circumstances summon medical personnel to stage near the scene when they reasonably believe the use of SIM is imminent.

### **Prohibited Uses**

1. Direct Fired SIM shall not be used against a person who is under restraint<sup>6</sup>.

<sup>6</sup> See DGO K-03, Section B-24 for definition.

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2. Members shall not intentionally target and fire specialty impact munitions at an engaged person's head, neck, spleen, liver, kidneys, throat, spine, left arm pit, or groin due to the increased likelihood of serious bodily injury or death. Absent the engaged person presenting a lethal threat or engaging in life-threatening resistance, members shall not target these areas.
  3. Absent the engaged person presenting a lethal threat or engaging in life-threatening resistance, direct fired drag-stabilized beanbag (DSFB) shall not be used against a person within 7 yards (21 feet).
  4. Direct Fired SIM shall not be used indiscriminately against a person, a crowd, or group of people even if some members of the crowd or group are violent or disruptive.
  5. Members shall not use SIM to dispatch animals.
  6. Members shall not use SIM against persons who are only engaged in non-compliance or passive resistance.
  7. SIM shall not be "skip-fired" (i.e., intentionally fired such that the round impacts another surface first before striking the intended target).

### **Crowd Control and Crowd Management Usage**

All use of SIM during Crowd Control and Crowd Management is controlled by OPD's Crowd Control Policy ([Training Bulletin III-G](#)). *Kinetic energy projectiles (SIM) shall not be used by any member to disperse any assembly, protest, or demonstration.*

### **Deployment Considerations**

1. Members shall, absent exigent circumstances, reasonably evaluate the intended person for the following Special Conditions before using SIM:
  - a. Pregnant People: Members shall not use SIM against a person who is known, or should reasonably be known, by a member to be pregnant, unless the member believes it is objectively reasonable that his/her life, or life of another, is in immediate danger of death or serious bodily injury, and alternative arrest and control techniques would pose a greater safety or injury risk to the engaged person, third parties or members.
  - b. Pre-Teen Children/Elderly people: Members shall not use SIM against a person known, or should reasonably be known, by the member to be the age of ten (10) or younger or over the age of seventy (70), unless the member believes it is objectively reasonable that his/her life, or life of another, is in immediate danger of death or serious bodily injury, and alternative arrest and control techniques would pose a greater safety or injury risk to the engaged person, third parties or members.

- c. Physically Disabled: Members shall not use SIM against a person known, or should reasonably be known, by the member to be physically disabled unless the member believes it is objectively reasonable that his/her life, or life of another, is in immediate danger of death or serious bodily injury, and alternative arrest and control techniques would pose a greater safety or injury risk to the engaged person, third parties or members.
2. Members shall, absent exigent circumstances, consider, as applicable to the incident, the following factors which may have a direct effect on the engaged person, members or third parties which would influence the decision to use SIM, or whether to use force at all. At all times, members shall be guided by the Department's Mission, Purpose, and Core Principles (DGO K-03, Section A) and the Department's Policy Requirement Regarding De-escalation (DGO K-03, Section C-3). The factors specific to SIM that officers shall consider include, but are not limited to:
- Is the engaged person armed and, if so, with what type of weapon? If the engaged person is armed with a firearm, will the firing of "less-lethal" SIM cause the engaged person to fire his/her firearm?
  - Is the level of force by the officer appropriate for the level of resistance or aggression exhibited by the engaged person?
  - What is the type of situation? Is the engaged person holding a hostage or are there other bystanders in the immediate area?
  - Are the officers on the Dedicated Arrest Team (DAT), the inner perimeter, and other surrounding areas aware that less-lethal SIM may be deployed? Has notification been made or will it be made to the surrounding officers? Will the firing of less-lethal SIM cause other officers to initiate sympathetic fire?

**Absent exigent circumstances, notification before and after the use of a SIM shall be made over the radio and/or in person when radio volume may be turned down for tactical reasons, radio communication problems are occurring or the incident involves outside agency personnel who may not have radio contact with the OPD.**

**Absent exigent circumstances, members shall ensure that personnel from other public safety agencies involved in the incident acknowledge receipt of the information prior to the use of SIM. This is to ensure the employment of SIM is not mistaken for lethal force.**

- Are other tactics in place, (e.g., O.C., TASERS, K-9's, multiple less-lethal SIM shooters, and arrest teams) as an alternate or contingency plan should less-lethal SIM not create the desired results?

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- What is the distance of the threat in relation to the less-lethal SIM shooter? The farther the threat, the less accurate the munitions and the less kinetic energy delivered. As the threat gets closer to the less-lethal SIM shooter, the shooter must lower the point of aim, (i.e., to the legs, buttocks, etc.)
  - What is the distance of the threat in relation to the arrest team? The further away the arrest team, the longer the threat has to recover from the effects of the SIM.
  - Follow up shots: because the first round may miss or not be effective, always be prepared to fire multiple rounds at the engaged person.
  - What is the availability of spare less-lethal SIM?
  - Are there any language or hearing barriers that affect the engaged person's ability to comprehend clear and articulate communication/directions from members?
  - Is the engaged person under the influence of medication, illegal drugs, or an intoxicant?
  - Are there any potential secondary injury possibilities to the engaged person (e.g. falling off of a building, running into traffic, etc.)?
  - Does the engaged person have any mental or psychological impairment?
  - What is the age of the engaged person? Does their age factor into the level of resistance the engaged person is posing or the immediacy of the threat they present?
  - What was the success or resilience to the use of previous SIM?
  - What is the probability of success in achieving the intended results with the SIM and a engaged person's defenses (e.g. engaged person swinging a jacket, body protection, etc.)?
  - Are alternative plans of action in place should the SIM not have the intended results?

### **Training**

Sworn members shall receive training on SIM during every continued professional training (CPT) cycle. This training shall include, but is not limited to, the following:

- Live fire of SIM at practice targets with emphasis on proper target selection;
- Overview of the provisions of this SIM policy;
- Information on situations in which SIM may be used for tactical purposes other than as a weapon; and
- Information on SIM prohibitions during crowd control.

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Staff conducting training shall keep a running count of how many SIM are expended during training and report it quarterly to the Department's Military Equipment Coordinator or designee.

All training/qualification records and lesson plans shall be maintained by the Training Section. The records shall not be purged once training and qualification have been updated or renewed. The records shall represent the entire history of the member's training, qualifications and the curriculum utilized for each training session.

### **Non-flexible vs. Flexible Projectiles**

There are two categories of SIM projectiles: non-flexible and flexible.

Non-flexible projectiles are composed of rigid or semi-rigid materials such as hard rubber or wood. Non-flexible projectiles DO NOT conform to the contour of the surface they strike.

Flexible projectiles are generally composed of lead or silica filled cloth bags, or a softer substance such as foam. Flexible projectiles conform to the contour of the surface they strike.

### **Single Projectile vs. Multiple Projectiles**

Generally, single projectile munitions (e.g. Drag stabilized flexible baton round, 40 mm sponge round) are rounds that launch one projectile with an expectation of point of aim – point of impact accuracy. Generally, these munitions are intended to be direct-fired munitions.

Multiple projectile munitions (e.g. Wooden dowels, 40mm foam baton round) are rounds launching more than one–or multiple–projectiles at the same time. Generally, these rounds are “skip-fired”. Indirect or skip fire munitions are prohibited.

### **Direct Fired vs. Indirect Fired/Skip Fired**

There are two methods in which less-lethal SIM are deployed onto a target: direct fired and indirect or skipped fired.

Direct fired munitions are intended to be fired directly at an engaged person while reasonably attempting to avoid prohibited areas, as specified in parts 5 and 6 of the *Use of Direct Fire Specialty Impact Munitions (SIM)* section, above.

Indirect or skipped fired munitions are intended to be fired so that the projectile impacts the ground first and then “skips” into the intended target. Indirect or skip fire munitions are prohibited.

### **Psychological (Mental) Effects**

Impact munitions have a tremendous mental effect on an individual. In many cases, the mental effects far outweigh the physical effects and may be the determining factor in the engaged person's response to the munitions.

Possible effects in engaged persons who have SIM deployed against them are fear, anxiety, and panic:

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Fear: Impact munitions may cause a powerful mental distraction. If the engaged person has prior knowledge of the effects of impact munitions and realizes that he/she is about to be targeted, this realization may be enough to cause the engaged person to comply or, at least, be distracted long enough for a plan of action to be implemented. The engaged person must also mentally cope with the physical pain that he/she feels after being struck with impact munitions.

Anxiety: The action of pointing a firearm directly at an individual and/or firing a projectile at him or her arouses fear in the individual of being shot with a firearm. The pain and, sometimes, the appearance of the injury may reinforce this belief.

Panic: Because it may create the “fight or flight” response, panic may not be the most desired effect.

Members shall consider and prepare contingencies for a panic response. Should it induce a “fight” response, a reliable secondary plan for incapacitation is needed. Should it induce the “flight” response, a secure perimeter along with other available assets should overcome any eluding actions.

### **Physiological (Physical) Effects**

There are two types of injuries caused by projectiles: penetrating and non-penetrating.

Penetrating injuries are caused from low mass, high velocity projectiles, such as bullets and some SIM if used at a close distance, or low velocity sharp objects such as knives.

Non-penetrating injuries are caused when blunt objects impact the surface of the body at moderate speeds causing blunt trauma but do not penetrate the body.

In simple terms, blunt trauma is the primary desired physical effect of less-lethal impact munitions.

The flexible baton inflicts enough pain to get most individuals to comply yet, when used properly, has a low probability of causing serious physical harm. Generally, the impact of the projectile along with the associated pain works to deter the individual from unwanted aggressive behavior.

The possibility of physical injury always exists whenever impact weapons are used. Inappropriate use of a SIM significantly increases the risk of injury or death to a suspect. Abrasions, lacerations, contusions, and fractures may result and need to be addressed by trained medical personnel (See DGO K-3, TB III- K, and DGO I-4 regarding first aid and emergency medical treatment.)

The human body can withstand high levels of force for very short durations of time if the force is distributed on the strong parts of the skeleton. The soft body tissues are responsible for absorbing and dissipating a great deal of force without producing a large amount of compression. However, if the amount and speed of blunt trauma is greater than can be absorbed, soft tissues can be damaged by tearing or rupturing, causing lacerations, cuts, and bruises.

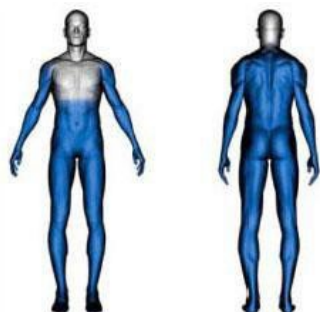
Impacts to the abdomen can cause injury to the liver and spleen causing crushing deformation. Chest impacts can displace internal organs and possibly lacerate major vessels by crushing or stretching.

Although rare, penetration into the body has occurred and is always a possibility, especially when improperly used, as a result of a combination of kinetic energy (weight, size, shape, and velocity); target distance; the engaged person's weight, mass, clothing, or other material coverings; and the area of the body at which the engaged person is impacted. Members shall use SIM within training guidelines and Department policy.

### **Viable Target Areas**

The authorized target areas for SIM are the same as for hand held impact weapons.

The primary target areas are areas consisting of large muscle groups such as the buttocks and thighs. Other target areas are the shoulder, upper arms, elbows, lower arms, lower abdomen area, knees, and lower legs. Skeletal target areas include the wrists, hands, ankles, and feet. It should be noted that impacting skeletal target areas may result in fractures.



Preferred Target Areas in Blue

Center mass shots provide for the highest probability of immediate incapacitation but also have the highest potential to cause serious injury or, in rare instances, death (See part 6 of *Use of Direct Fire Specialty Impact Munitions (SIM)* section above.)

Factors an officer shall consider when selecting a target area to strike are the following:

- Clothing – In colder climates, heavier clothing and jackets reduce the amount of blunt trauma the engaged person receives. Exposed target areas such as the legs should be considered. In hotter climates, where lighter clothing is worn, factors to

consider are shot placement and engagement distance. Engaged persons may also wear “armor” to defeat/lessen the effects of impact munitions.

- Physical stature and condition – Is the engaged person heavy and muscular or is the engaged person thin and skeletal? How old is the engaged person? Most likely, a 250-pound person will be less physically affected than a 100-pound person when both are struck in the same target area. The blunt trauma effects and the potential for injury are much greater for the smaller stature engaged person.
- Immediate surroundings – Be aware of what or who is in the background. Are there any persons in the immediate area that might be struck from a deflected or missed shot?

### **Non-Target Areas**

Department policy prohibits intentionally targeting and firing SIM at vulnerable body parts. Members shall avoid striking a engaged person’s head, neck, spleen, liver, kidneys, throat, spine, left arm pit, or groin with any type of specialty impact weapon. Unless your intent is to use LETHAL FORCE, all reasonable attempts shall be made to avoid striking these areas. It should be noted that, when an engaged person is moving or attempting to shield him/herself, avoiding these target areas may be difficult. Given the inherent risk of striking vulnerable body parts, members and supervisors should weigh the risk vs. benefit of using SIM against a moving person.

Members shall, absent exigent circumstances, avoid intentionally targeting the upper chest.

### **12 Gauge Specialty Impact Munitions**

Safariland Drag Stabilized Bean Bag rounds (both marking #3028 and non-marking #3027), and the CTS Super-Sock (both marking #2581G and non-marking #2581) are the only authorized 12 gauge SIMs. These rounds are hereafter referred to as Drag Stabilized Flexible Baton, or DSFB, rounds.

All authorized 12 gauge SIMs share a common design and function in the same manner. These SIM rounds employ a tail design to improve accuracy and a conforming projectile to deliver blunt-force-trauma.

The Safariland rounds are single, tear-shaped, heavy-cotton and ballistic material projectiles with four stabilizer tails. The CTS rounds are single, tear shaped, heavy-cotton and ballistic material projectiles with a single cone shaped stabilizer tail. All authorized DSFB rounds are filled with 40 grams (1.43 oz.) of #9 lead shot loaded into a translucent 12 gauge shell. The rounds use smokeless gunpowder as a propellant. When fired, the projectile travels at about 280 feet per second. Because it is tear-shaped with a stabilizer tail(s), it is very aerodynamic and has a high degree of accuracy. The tear shape also creates a blunt impacting surface, which causes fewer injuries than the discontinued flat flexible baton round.





The 12 gauge DSFB round has an optimal energy range of 20-75 feet and is intended to be a direct fired munition. The user shall be thoroughly trained, qualified and maintain the Department standard of annual qualification to maintain certification in its use.

Some encounters may require two or more shots placed on an engaged person to gain compliance and shall be justified as required by DGO K-3. Each application is a use of force. Alternate plans of action should be in place should the desired results not be achieved.



### **The Remington 870 Pump Action Shotgun**

The 12 gauge Drag Stabilized Flexible Baton Round shall be fired from a barrel with a choke rating of “Cylinder Bore.” A “Cylinder Bore” choke is required to ensure that the SIM exits the barrel of the weapon system completely and does not become lodged inside. The only shotgun deployed by the Department that has this choke rating is the Remington, Model 870, 12 gauge pump-action shotgun.

Other factors adversely impacting a flexible baton projectile’s ability to exit the barrel when fired are:

- A dirty/fouled barrel;
- A bent/damaged barrel; and/or
- Damaged munitions.



### **Safety Checks**

Incidents have occurred when peace officers in other agencies shot engaged persons with lethal shotgun ammunition when those officers believed that less-lethal ammunition was loaded into their shotguns. In order to prevent a lethal firearms discharge, members shall strictly follow the deployment safety checks detailed in this section.

Prior to the deployment of **any** 12 gauge less-lethal SIM, members shall thoroughly complete the following safety checks:

1. Clear the weapon system of all lethal ammunition. Double check to ensure that the weapon system is indeed clear of any lethal ammunition.
2. Have a second officer double check that the weapon system is clear of any lethal ammunition. This step is incorporated to ensure that an officer has not overlooked any lethal ammunition due to fatigue, darkness, or stress.
3. Ensure that lethal ammunition for the weapon system is inaccessible to the less-lethal shooter. The best course of action to ensure that no lethal ammunition is accessible is to lock it in a secure location such as the glove box or the trunk. THE LESS-LETHAL SHOOTER SHALL NEVER INTER-MINGLE LETHAL AMMUNITION FOR THE WEAPON SYSTEM ON HIS/HER PERSON OR SHOTGUN.
4. Inspect each less-lethal round to ensure that the munitions are less-lethal. Visually inspect each and every less-lethal round that is deployed to ensure that it is indeed less-lethal. Never assume.

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5. Have a second officer double check each less-lethal round to ensure that the munitions are in fact less-lethal. This step is incorporated to ensure that an officer has not overlooked any lethal ammunition due to fatigue, darkness, or stress.

Although there are designated orange colored less-lethal Remington, Model 870 shotguns for Crowd Control Operations, this does not preclude negligent lethal discharges. The only way to prevent negligent lethal discharges is to strictly follow the five safety checks listed above.

### **40mm Single and Multi Shot Launchers**

40mm SIM shall be fired from a 40mm launcher. The launchers used by the Oakland Police Department are the Penn Arms Single and Multi Shot shoulder fired launchers and the Defense Technology 40LMTS. These launchers can be fired either in the single action or double action mode. Each launcher has a full length Picatinny rail adaptable for mounted electronic sight systems, and also a fixed front sight bead and rear ghost ring sight.

All users shall be thoroughly trained and qualify annually to maintain their Department certification in its use. The user shall visually inspect each round before placing it in the launcher to ensure he/she is using the intended round type.

40mm Multiple Foam Baton - A Direct and Indirect Fired SIM manufactured by Defense Technologies. It consist of a 1.60 inch diameter by 4.89 inch long casing that contains (3) foam rubber projectiles. This SIM uses smokeless powder as a propellant. Each foam rubber is a 1.40 inch cylindrical shaped baton made of foam. Each baton weighs .40 ounces. When fired, the batons travel at about 325 feet per second.

The 40 mm Foam Baton Round is intended to be direct fired. The operator shall be adequately trained in the use of Less Lethal Impact Munitions and have a thorough understanding of the round and considerations for selecting shot placement such as level of threat, target distance, size, and clothing.

The 40 mm Foam Baton Round is most suitable in close to medium ranges of fire, approximately 15 to 30 feet. Beyond 30 feet, the lightweight foam batons may move off target and lose most of their energy.

Engagement distances may be limited by walls or barriers. It may also prove valuable in urban riot situations where police lines and protestors are in close proximity. As a dynamic energy round for the incapacitation or distraction of single non-complaint or aggressive persons, it is best suited at close to moderate distances, approximately 10 to 20 feet. All users shall be thoroughly trained and qualify annually to maintain their Department certification in its use.

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40mm Direct Impact Round – A Direct Fired SIM manufactured by Defense Technologies. It consists of a

1.60 inch diameter by 4.40 inch long casing that contains (1) crushable foam nose, powder payload and plastic body projectile. This SIM uses smokeless powder as a propellant. Each foam is a 2.92 inch cylindrical shaped projectile made of foam. Each foam weighs 1.45 ounces. When fired, the batons travel at about 295 feet per second.

The 40 mm Direct Impact Round is a “point-of-aim, point-of-impact” direct fire round that is most commonly used by tactical teams in situations where greater accuracy and deliverable energy is desired for the incapacitation of an aggressive, non-compliant engaged person at longer distances. The 40mm sponge round is the only SIM that may be deployed during Crowd Management and Control incidents.

The 40 mm Direct Impact Round is intended for direct fire deployment. The operator shall be adequately trained in the use of Less Lethal Impact Munitions and have a thorough understanding of the round and considerations for selecting shot placement such as level of threat, target distance, size and clothing. The 40 mm Direct Impact Round will prove most successful for incapacitation when used within their optimal energy range of 5 – 36 meters, although it may be used in situations from 2 – 50 meters.

All users shall be thoroughly trained and qualify annually to maintain their Department certification in its use. The user shall visually inspect each round before placing it in the launcher to ensure he/she is using the intended round type.

### **Hand Deployed Specialty Impact Munitions**

The Oakland Police Department deploys the following hand deployed SIM.

#15 Stinger Grenade – The Stinger Grenade is a combination specialty impact munition and diversion device that may incorporate optional CS or OC laden powder. The Stinger Grenade is a maximum effect device because it delivers up to four stimuli for psychological and physiological effect: rubber pellets, bright light, sound, and optional chemical agent powder.

These munitions are 3.1 inches in diameter and 5.2 inches long. These munitions contain 8 ounces of flash powder and 150 .32 caliber soft rubber balls. The munitions that contain powder chemical agent can contain up to 2.0 grams of CS or .30 grams of OC. Other variations that may be deployed are the same munitions without the rubber pellets.

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The Stinger Grenade has an initial 1.5 second delay that initiates fuse assembly separation, followed by another .5 second delay before the device functions. The blast is sufficient to project the rubber balls and optional chemical agent powder in a 50 foot radius.

Only members of the Tactical Operations Team are authorized to use the Stinger Grenade and the user shall be thoroughly trained, qualified and maintain the Department standard of annual qualification to maintain authorization in its use. The Stinger Grenade is not authorized for use in any Crowd Control or Crowd Management Operation or against people (See exception under *Tactical Operations Deployment* section below).

### **Tactical Operations Deployment**

The Stinger Grenade may only be deployed against a person by the Tactical Operations Team, during a Non- Crowd Control or Crowd Management Operation, when a member objectively and reasonably believes that his/her life, or life of another, is in immediate danger of death or serious bodily injury based upon the totality of the facts known at the time.

### **Post Deployment Considerations**

After an engaged person has been taken into custody using a SIM, specific tasks shall be completed.

First Aid or Medical Treatment – Members shall provide, as necessary, and summon professional medical assistance, as soon as practical, whenever an engaged person is struck by a SIM and taken into custody (See DGO K-3, USE OF FORCE, TB III-K, FIRST AID, and DGO I-4, AMBULANCE SERVICE, regarding first aid and emergency medical treatment.)

Evidence – Personnel shall recover all expended casings and projectiles for documentation purposes and make inventory of all remaining live munitions for accountability. If the situation or exigency does not allow the recovery of the evidence (e.g. crowd control situation), officers shall document in their respective reports the number of munitions deployed and the circumstances disallowing the recovery of the evidence.

Additionally members shall, when notifying their supervisor of the use of force, notify their supervisor regarding the non- recovery of evidence.

### **Equipment Use Reporting**

Any personnel firing or using a SIM outside of training shall report the use to their supervisor. Uses of force shall be handled as detailed in the next section. Other uses shall be reported via the military equipment deployment notification process by the deploying member's commander.

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Documentation – As required by Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE, a supervisor shall be summoned to the scene to conduct a Level 2 force investigation when SIM are used against a person.

At a minimum, members shall consider the following factors, as applicable, for detailed inclusion in their Offense, Supplemental or Investigation Report:

- The engaged person's behavioral signals at the onset of the incident.
- The engaged person's tone of voice or language (Was the engaged person yelling or using profanity or verbal threats, etc.?)
- The engaged person's body language/physical gestures (shirt off, violent combative gestures/movements, hands clenched into fists, rapid pacing).
- Any signals of submission by the engaged person (compliance, agreement to comply, etc.)
- Any indications the engaged person made to comply with verbal instructions (submission, going to a specific location, relinquishing/dropping objects/weapons).
- The conditions that dictated shot placement (lighting, obstacles, distance, etc.)
- Environmental conditions (darkness, rain, sunlight).
- The engaged person's approximate age, height, weight, clothing.
- Whether a physical confrontation would have resulted if less-lethal SIM had not been used.
- Whether BWC was viewed prior to writing the final version of the report.
- Identification of other Department members and public safety personnel, who were present, and their activities and/or role in the incident.
- What safety checks were done prior to deployment of SIM and who conducted the checks.
- When and type of first aid or emergency medical treatment that was provided, and by whom.
- Attach a copy of the paramedic and/or hospital medical report, if available.
- Evidence collected.

- Names, contact information, and thorough recorded statements of witnesses.
- Time when supervisor was advised of the use of SIM.
- Availability of photographs, sketches, diagrams, video, etc. of the scene.
- Photos of the suspect and clothing.
- Other articulable factors which led the member to believe it was objectively reasonable to utilize force and the type of force used.

### **Inquiry and Complaint Process**

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.<sup>7</sup>

Refer to DGO K-7 for additional information on inquiries around controlled equipment.

<sup>7</sup> DGO M-3 states, “IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander.”

## **Description and Purpose**

<b>40mm Launcher LMT 40mm</b>	
<b>Description</b>	Single Shot, breech fed, rifled barrel, chambered for 40mm, with double action trigger
<b>Manufacturer's Product Description</b>	Manufactured exclusively for Defense Technology®, the 40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.
<b>Capabilities / How the item works</b>	With breech open, a 40mm cartridge/round can be manually loaded. Once breech is closed, launcher is fired by pulling the trigger. Once cartridge fires, the projectile travels down and out of the front of the barrel. Operator then opens breech to manually extract/eject spent casing of cartridge. The launcher is then ready to be reloaded. Capable of firing multiple different types of 40mm launched munitions.
<b>Expected lifespan</b>	No lifespan indicated by the manufacturer
<b>Quantity</b>	10
<b>Purpose and intended uses and/or effects</b>	The 40mm launcher is a delivery device for 40mm munitions. 40mm Specialty Impact Munitions are designed to be used as an intermediate force option at distance.

### **40mm Penn Arms PGL 65-40**



<b>Description</b>	Six Shot capacity cylinder, pump action, rifled barrel, chambered for 40mm, with double action trigger
<b>Manufacturer's Product Description</b>	A 40mm pump-action advance magazine drum launcher with a fixed stock and combo rail. It has a six-shot capacity and rifled barrel. Previously labeled the PGL-65, the features include: Double-action trigger, trigger lock push button and hammer lock safeties.
<b>Capabilities / How the item works</b>	With cylinder opened, six 40mm cartridge/rounds can be manually loaded. Once cylinder is closed, launcher is fired by pulling the trigger. Once single cartridge fires, the projectile travels down and out of the front of the barrel. Operator, then pumps fore-end to advance cylinder to next cartridge/round. <b>We do not use/deploy this launcher due to function unreliability.</b>
<b>Expected lifespan</b>	No lifespan indicated by the manufacturer
<b>Quantity</b>	9
<b>Purpose and intended uses and/or effects</b>	The 40mm launcher is a delivery device for 40mm munitions. 40mm Specialty Impact Munitions are designed to be used as an intermediate force option at distance.

<b>Orange Stock 12 Gauge Wilson Combat/Remington 870 Shotgun</b>	
<b>Description</b>	12 Gauge, pump action shotgun with 18" smooth bore, and four shell capacity magazine tube.
<b>Manufacturer's Product Description</b>	The Remington 870 Police pump-action shotgun is a rugged 12-gauge with a short, tactical 18" barrel backed by a stout 3" chamber. The all-matte black gun is Parkerized for generalized durability and rust-resistance. Both the pump action forend and stock are robust and tough synthetic.
<b>Capabilities / How the item works</b>	See Description and Manufacturer's Product Description. Capable of firing both lethal and less-lethal shotgun munitions, but marked specifically for firing less-lethal rounds.
<b>Expected lifespan</b>	No lifespan indicated by the manufacturer
<b>Quantity</b>	Approximately 20 owned by Department
<b>Purpose and intended uses and/or effects</b>	The orange stocked 12 Gauge Shotguns are designated to be less lethal shotguns only. They are to be loaded only with 12 Gauge less lethal drag stabilized flexible baton rounds, which are Specialty Impact Munitions designed to be used as an intermediate

force option at distance. These are no longer issued or allowed in the field by the Department.

<b>40mm Direct Impact Marking 6326</b>	
<b>Description</b>	Defense Technology Impact Munition, 40mm, crushable foam tip, green marking powder
<b>Manufacturer's Product Description</b>	The 40mm Direct Impact® munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with a green marking agent, the Direct Impact can be used to indicate the aggressor in a crowd or riot situation to the team on the ground.
<b>Capabilities / How the item works</b>	Launched from a 40mm Launcher. The crushable foam breaks on impact dispersing a green marking powder. Capable of causing blunt-trauma injuries similar to a hand-held impact weapon such as a police baton.
<b>Expected lifespan</b>	5 Years- Per manufacturer
<b>Quantity</b>	200
<b>Purpose and intended uses and/or effects</b>	40mm Direct Impact Marking 6326: Intended use is as a distance intermediate force option. It creates blunt force trauma. It is also used to strike objects in order to gain attention/compliance of subjects and break windows in order to improve visibility

<b>CTS 40mm Frangible Impact 4550 Orange Marking Powder</b>	
<b>Description</b>	Combined Tactical Systems, 40mm, crushable foam tip, orange marking powder
<b>Manufacturer's Product Description</b>	The 40mm Direct Impact® munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with a green marking agent, the Direct Impact can be used to indicate the aggressor in a crowd or riot situation to the team on the ground.

<b>Capabilities / How the item works</b>	Launched from a 40mm Launcher. The crushable foam breaks on impact dispersing a orange marking powder. Capable of causing blunt-trauma injuries similar to a hand-held impact weapon such as a police baton.
<b>Expected lifespan</b>	5 years per manufacturer
<b>Quantity</b>	50
<b>Purpose and intended uses and/or effects</b>	40mm Frangible Impact 4550: Intended use is as a distance intermediate force option. It creates blunt force trauma. It is also used to strike objects in order to gain attention/compliance of subjects and break windows in order to improve visibility

<b>40mmFoam Baton 6099</b>	
<b>Description</b>	Defense Technology Impact Munition, 40mm, three foam projectiles
<b>Manufacturer's Product Description</b>	The 40 mm Multiple Foam Baton Round is most widely used as a crowd management tool where stand-off distances are limited. It may also prove valuable in riot situations where police lines and protestors are in close proximity. The round contains three foam projectiles. It utilizes smokeless powder and has more consistent velocities and tighter patterns compared to its 37 mm counterpart. The foam projectile allows for closer deployment, while minimizing injury.
<b>Capabilities / How the item works</b>	Launched from a 40mm Launcher. The three foam projectiles will spread over distance. Capable of causing blunt-trauma injuries similar to a hand-held impact weapon such as a police baton.
<b>Expected lifespan</b>	5 years- per manufacturer
<b>Quantity</b>	60
<b>Purpose and intended uses and/or effects</b>	40mm Foam Baton round is intended as a distance intermediate force option. <b><i>We do not use/deploy this round because of the higher potential for portions of the round to strike unintended targets.</i></b>

<b>12Ga 2581 Super Sock</b>	
<b>Description</b>	Combined Tactical Systems, 12 gauge drag stabilized flexible baton round, "bean bag" round

<b>Manufacturer's Product Description</b>	The Model 2581 Super-Sock® is in its deployed state immediately upon exiting the barrel. It does not require a minimum range to “unfold” or “stabilize.” The Super-Sock® is an aerodynamic projectile and it’s accuracy is relative to the shotgun, barrel length, environmental conditions, and the operator. The Super-Sock® is first in its class providing the point control accuracy and consistent energy to momentarily incapacitate violent, non-compliant subjects. Effective range is 75ft.
<b>Capabilities / How the item works</b>	Launched from a 12 gauge shotgun. Capable of causing blunt-trauma injuries similar to a hand-held impact weapon such as a police baton.
<b>Expected lifespan</b>	5 years- per manufacturer
<b>Quantity</b>	2000 in reserve- Every certified officer is issued 5
<b>Purpose and intended uses and/or effects</b>	12Ga 2581 Super Sock: Intended use is as a distance intermediate force option. It creates blunt force trauma. It is also used to strike objects in order to gain attention/compliance of subjects and break windows in order to improve visibility

## **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 LMT 40mm launchers are approximately \$500 per launcher.

The Penn Arms 40mm multi-launchers are approximately \$1600 per launcher and were acquired through a grant.

The 12 Gauge Wilson Combat/Remington 870 shotguns are approximately \$1200 per.

The 40mm impact munition rounds are typically approximately \$25 per round. The 12Ga impact munitions are typically approximately \$5 per round.

**NOTE:** OPD does utilize standard-issue patrol shotguns (also Remington 870 shotguns) for firing of specific 12 gauge SIM. While these shotguns are not specifically listed in this report as they are standard issue and have the primary purpose of providing a lethal force shotgun

option, the alternative use for specific 12 gauge SIM is specifically addressed by the controlling policy.

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

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

Delivery devices (launchers and shotguns) require no recurring cost for use beyond normal wear and tear.

Impact munitions will need to be replenished as they are used during incidents or during training at a cost of \$25 per 40mm round and \$5 per 12ga round. Incidents involving the use of specialty impact munitions vary and trainings are annual per certified officer.

Like other less-lethal or lethal weapons that are used as force options, there may be serious costs such as injury or loss of life even when these weapons are used exactly as specified in law and policy. Even justified uses of less-lethal force may result in costly litigation or other costs.

### ***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 injuries, both anticipated and beyond anticipated, from deployment of these weapons. The costs of these injuries could include psychological effects, monetary costs, and opportunity costs from litigation.

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

The 40mm impact munitions are used only by certified members of the tactical team and Patrol Rifle program, and are not as widely used as the 12 gauge drag stabilized flexible baton rounds. Those that certify/recertify, do so once a year. That process includes the use of 40mm training rounds, which are reloadable/reusable.

The 12 Gauge Drag stabilized flexible baton rounds also vary in use depending on the incident. Every officer coming out of Academy is certified in the use of these rounds and are recertified annually. Expired rounds are used during recertification training.

## **Impacts**

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

#### Deliberate misuse.

Though unlikely, it is possible that LMT 40mm Launcher, Penn Arms PGL 65-40 40mm Launcher, Wilson Combat Remington 870 12 Gauge Shotgun, 40mm Direct Impact Marking 6326, CTS 40mm Frangible Impact 4550 Orange Marking Powder, 40mm Foam Baton 6099, CTS 12Ga 2581 Super Sock specialty impact munitions 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.

Unintentional misuse of LMT 40mm Launcher, Penn Arms PGL 65-40 40mm Launcher, Wilson Combat Remington 870 12 Gauge Shotgun, 40mm Direct Impact Marking 6326, CTS 40mm Frangible Impact 4550 Orange Marking Powder, 40mm Foam Baton 6099, CTS 12Ga 2581 Super Sock specialty impact munitions 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 LMT 40mm Launcher, Penn Arms PGL 65-40 40mm Launcher, Wilson Combat Remington 870 12 Gauge Shotgun, 40mm Direct Impact Marking 6326, CTS 40mm Frangible Impact 4550 Orange Marking Powder, 40mm Foam Baton 6099, CTS 12Ga 2581 Super Sock specialty impact munitions 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.

#### Injuries and Effects

##### **Psychological (Mental) Effects**

Impact munitions have a tremendous mental effect on an individual. In many cases, the mental effects far outweigh the physical effects and may be the determining factor in the engaged person's response to the munitions.

Possible effects in engaged persons who have SIM deployed against them are fear, anxiety, and panic:

Fear: Impact munitions may cause a powerful mental distraction. If the engaged person has prior knowledge of the effects of impact munitions and realizes that he/she is about to be targeted, this realization may be enough to cause the engaged person to comply or, at least, be distracted long enough for a plan of action to be implemented. The engaged person must also mentally cope with the physical pain that he/she feels after being struck with impact munitions.

Anxiety: The action of pointing a firearm directly at an individual and/or firing a projectile at him or her arouses fear in the individual of being shot with a firearm. The pain and, sometimes, the appearance of the injury may reinforce this belief.

Panic: Because it may create the “fight or flight” response, panic may not be the most desired effect.

Members shall consider and prepare contingencies for a panic response. Should it induce a “fight” response, a reliable secondary plan for incapacitation is needed. Should it induce the “flight” response, a secure perimeter along with other available assets should overcome any eluding actions.

### **Physiological (Physical) Effects**

There are two types of injuries caused by projectiles: penetrating and non-penetrating.

Penetrating injuries are caused from low mass, high velocity projectiles, such as bullets and some SIM if used at a close distance, or low velocity sharp objects such as knives.

Non-penetrating injuries are caused when blunt objects impact the surface of the body at moderate speeds causing blunt trauma but do not penetrate the body.

In simple terms, blunt trauma is the primary desired physical effect of less-lethal impact munitions.

The flexible baton inflicts enough pain to get most individuals to comply yet, when used properly, has a low probability of causing serious physical harm. Generally, the impact of the



projectile along with the associated pain works to deter the individual from unwanted aggressive behavior.

The possibility of physical injury always exists whenever impact weapons are used. Inappropriate use of a SIM significantly increases the risk of injury or death to a suspect. Abrasions, lacerations, contusions, and fractures may result and need to be addressed by trained medical personnel (See DGO K-3, TB III- K, and DGO I-4 regarding first aid and emergency medical treatment.)

The human body can withstand high levels of force for very short durations of time if the force is distributed on the strong parts of the skeleton. The soft body tissues are responsible for absorbing and dissipating a great deal of force without producing a large amount of compression. However, if the amount and speed of blunt trauma is greater than can be absorbed, soft tissues can be damaged by tearing or rupturing, causing lacerations, cuts, and bruises.

Impacts to the abdomen can cause injury to the liver and spleen causing crushing deformation. Chest impacts can displace internal organs and possibly lacerate major vessels by crushing or stretching.

Although rare, penetration into the body has occurred and is always a possibility, especially when improperly used, as a result of a combination of kinetic energy (weight, size, shape, and velocity); target distance; the engaged person's weight, mass, clothing, or other material coverings; and the area of the body at which the engaged person is impacted. Members shall use SIM within training guidelines and Department policy.

## **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](#)***

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 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***

There are no specific technical safeguards other than their design to be used as less lethal impact munitions and if used properly lower the potential for adverse effects such as great bodily injury or death.

### ***Procedural safeguards***

Every officer that is certified to use specialty impact munitions have to be certified by POST certified instructors and recertify every 18 months during the continued professional training (CPT) cycle. The certification process includes, but not limited to, training: in policy, de-escalation, use of force, practical application. There are also procedural safeguards trained, that include procedures for ensuring absence of lethal ammunition, non-target areas (head, neck, throat, groin, left armpit, kidney, spleen, upper chest) and preferred target areas (Areas of large muscle groups (shoulder, arms, buttocks, legs). In an attempt to minimize injury potential, the Department has a minimum safe distance of 21 feet for the deployment of SIM.

There have been incidents in American law enforcement use of SIM where the sound of a SIM deployment has induced “sympathetic fire” from other officers with lethal ammunition. OPD’s policy anticipates this and specifically requires both notification over the radio and/or in person as well as notification to personnel from other law enforcement agencies (if they are near) that SIM is being deployed prior to its use.

## **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 closest reasonable alternative to Specialty Impact Munitions is the ECW specifically the Axon Taser 7 which we have and is now replacing our Taser X26. The ECW does provide an intermediate force option that can be used at distance but only to a max range of 25 ft. The specialty Impact munitions that we deploy are effective to 75ft.

## **Location**

LMT 40mm Launcher, Penn Arms PGL 65-40 40mm Launcher, Wilson Combat Remington 870 12 Gauge Shotgun, 40mm Direct Impact Marking 6326, CTS 40mm Frangible Impact 4550 Orange Marking Powder, 40mm Foam Baton 6099, CTS 12Ga 2581 Super Sock specialty impact munitions 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**

Less-lethal specialty impact munitions have a long track record, as they create a long-distance alternative to weapons that police officers have been carrying for as long as there were organized patrols: impact weapons. Just like handheld impact weapons, SIM are intermediate force options which allow for use of less-lethal force at distances that don't require officers to be close to a person. These can be especially useful for persons who are armed with edged or blunt weapons that can cause great bodily injuries or death (such as

knives or clubs), as using the less-lethal SIM can lead to non-lethal outcomes that might otherwise turn into encounters where the officer fired their lethal firearm.

OPD has had many successful uses of SIM as a long distance less-lethal force option, especially for cases of persons who were armed with weapons that were not firearms. Other police agencies report that SIM, especially 40mm SIM, are effective; Berkeley police noted that “it has been our experience that a 40mm projectile impact will almost always resolve a violent confrontation with 1 or 2 applications. The larger projectile produces more kinetic energy than the FN 303, which may require several applications to gain compliance.” Santa Rosa PD reported that they deploy a 40mm SIM launcher in every marked patrol vehicle, and have different policies depending on the type of incident encountered.

With these weapons, there have been notable times when the weapons were either misused or otherwise resulted in poor outcomes. For instance, in the case of *Deorle v. Rutherford*, a seminal case on the use of less-lethal SIM, a resident of Butte Co. California was struck by a SIM which resulted in the loss of his eye. Closer to the Bay Area, a protestor was struck by a SIM during an “Occupy” protest in downtown Oakland leading to life-threatening brain injury. Just like any weapon, SIM can be dangerous and must be handled properly; OPD’s policy is similar to many other agencies in its delineation of prohibited areas and requirement for training prior to the use of these weapons.



Effective Date:  
XX MMM 22

Index Number: III-P.04  
Alpha Index: High Risk Incidents  
Barricaded Subject Incidents  
Critical Incidents

Evaluation Coordinator: Training Division

*“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”*

## ARMORED VEHICLES

### Overview

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.

### Purpose of Armored Vehicles

An armored vehicle is a piece of law enforcement equipment that may allow officers to use non-force options to safely resolve incidents involving actual, threatened, or reasonably suspected violence using firearms or explosives. The protective capabilities of an armored vehicle greatly exceed those of a patrol vehicle and proper deployment of armored vehicles may increase the safety of the public, law enforcement officers, and other first responders. Armored vehicles provide improved cover for officers, are stocked with tools that might be needed during a critical incident, and increase the options for a safe resolution.

The Department's armored vehicles<sup>1</sup> are listed below:

Name	Type
<b>Lenco BearCat</b>	Specialty Law Enforcement Armored Vehicle
<b>Chevrolet Suburban</b>	Consumer vehicle upfit with ballistic armor

<sup>1</sup> Reference the Department's Military Equipment Inventory, available at <https://cao-94612.s3.amazonaws.com/documents/Militarized-Equipment-Inventory.pdf>, for the quantity possessed, capabilities, expected lifespan, costs and fiscal impacts, and product descriptions of specific vehicles.

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Deployment of an armored vehicle might result in the safe apprehension of an engaged person in a timely manner. The Department recognizes that the deployment or appearance of certain armored vehicles may escalate tension, provoke fear, prevent clear communication, or increase distrust. The Department therefore restricts deployment of armored vehicles to those situations where the benefits of deployment outweigh the potential detrimental effects.

### **Authorized Uses of Armored Vehicles**

Command officers (at the rank of Lieutenant of above) may authorize the deployment of an armored vehicle for:

- Use as mobile physical cover in incidents involving actual or threatened violence, or when reasonable suspicion, based on articulable facts, exists that violence will occur using firearms or explosives.
- Vehicle blocking for incidents involving armed and unresponsive persons in vehicles (Reference Training Bulletin III-P.01).
- Medical emergencies and disaster responses, when the armored vehicle's capabilities are necessary to prevent loss of life.
- Oversight and informational purposes, as authorized by the Police Commission

Commanders shall only authorize the deployment of armored vehicles when the specific capabilities of the armored vehicle selected for use are necessary to bring an incident to a safe conclusion. Any authorized departure from an armored vehicle's place of storage shall be considered a deployment.

### Safe use of armored vehicles during authorized deployments:

Vehicle deployments will necessarily vary depending on the circumstances at hand. All uses of armored vehicles should be consistent with Department training and procedures and include:

- Maintaining adequate cover. The armored vehicle's capabilities greatly exceed those of any patrol vehicles and should be maximized.
- Restricting persons' movement. The armored vehicle may give an advantage over conventional patrol vehicles for such maneuvers as blocking in another vehicle.
- Allowing for peaceful negotiations. Armored vehicles may allow officers to get into position to safely negotiate while still maintaining cover.
- The armored vehicle should be placed in such a way as to maximize the position of protection for officers or others at risk of harm, to allow all reasonable means for resolving the incident peacefully.
- Protecting Life. Armored vehicles may be able to operate in situations (e.g. active shooter) where personnel driving conventional vehicles would be at risk.



- Assessing the threat posed by the armed person, and proportional force options to respond to immediate contingencies if necessary. Depending on the ability of officers to mitigate the immediate threat posed by an armed person to officers and the public, officers may not need to necessarily use force pre-emptively even if the person moves or awakens and does not immediately disarm themselves.

### **Pre-planned Operation of Armored Vehicles**

All pre-planned deployments of armored vehicles must be authorized by a command officer at the rank of Captain or above. Commanders shall ensure that an operations plan (Reference Training Bulletin III-Q and TF –3116 Operations Plan and Risk Assessment Overview) is completed for all pre-planned deployments.

Commanders shall make every effort to avoid the deployment of armored vehicles 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”.)

Commanders shall determine whether to deploy an armored vehicle based on credible intelligence, and consider the following variables when determining whether to deploy an armored vehicle, and the type of armored vehicle to deploy:

- Whether the use of an alternative operation location would diminish the need to use an armored vehicle.
- Potential presence of minors, elderly, medically compromised, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people. (Note: This variable should be given special consideration due to the potential for trauma.)
- Potential presence of uninvolved persons. (Note: This variable should be given special consideration due to the potential for trauma.)
- Potential traumatic effect of an armored vehicle’s presence on neighbors and other bystanders.
- Lack of knowledge on relevant characteristics of the operation location and persons present.
- Reliability of intelligence source for information on the operation location and persons present.
- For night-time operations, potential effects on sleeping or just-awakened persons.
- Potential presence of firearms (including caliber and type), explosives, chemical agents, edged weapons.
- Potential skills of persons present to use firearms or other weapons, including experience in law enforcement, military, or other armed groups.

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- Whether the targeted person(s) have a history (within a time period relevant to the suspected crime) involving the criminal use of firearms or other weapons.
  - Geographic factors, such as barriers, locked gates, water, thick brush, and narrow roads, and other factors that limit the maneuverability of the armored vehicle.
  - Presence and type of animals present.

### **Prohibited Uses of Armored Vehicles**

All uses that are not authorized by this policy are prohibited. For purposes of clarity, the following are specifically noted as prohibited uses:

- Recruitment, public relations, or promotional activities
- Crowd control
- Routine patrol operations
- Attachment of a weapon
- Attachment of a ram (outside of use during natural disasters or medical emergencies)

### **Operation of Armored Vehicles**

Armored vehicles shall only be operated by officers<sup>2</sup> certified by the Tactical Operations Team commander. This includes, but is not limited to, all members of the Entry Team and Sniper Team elements. It also includes all Patrol Rifle Officers (PRO's).

### **Vehicle and Operations Training**

All officers authorized to operate armored vehicles shall participate in training sessions for their proper operation, which shall be conducted by a member of the Department's Training Staff. Periodic training shall include a review of the essential features of the vehicle, and a driving, operational and tactical maneuvering assessment, to ensure all operators are proficient in its use, and aware of emergency procedures. The records of such training shall be maintained by the Department's Training Staff.

Armored vehicles shall also be included in scenario-based training, to provide officers who respond to critical incidents with continued familiarization to ensure the safe operation and effectiveness of these vehicles. Scenario and classroom-based training also offer the opportunity to screen for, monitor, and assess an officer's mental and physical readiness to conduct critical incident operations prior to deployment in such operations.

Use of an armored vehicle for training purposes shall be considered a "use" for purposes of reporting.

### **Use of Video Recording Devices with Armored Vehicles**

<sup>2</sup> "Officers" includes all sworn members of all ranks and is used for brevity.

Officers operating an armored vehicle shall utilize any video recording devices assigned to that vehicle<sup>3</sup> in accordance with Departmental policy for the use of portable digital recording devices (e.g. Departmental General Order I-15.1). This means that absent exigent circumstance (e.g. active shooter) the recording devices shall be attached to the armored vehicle and activated prior to initiating the circumstances enumerated in policy (e.g. detentions and arrests, serving a search or arrest warrant). Additionally, recording devices shall not be deactivated until allowed per policy.

Once an armored vehicle is deployed to the scene, the on-scene supervisor of the officers utilizing the armored vehicle (e.g. Team Leader of the Designated Arrest Team) shall ensure the cameras are positioned towards the person or the location of interest when it is feasible to do so safely.

The officer operating the armored vehicle is responsible for ensuring video recording devices are deployed with the armored vehicle and activated appropriately, recordings are uploaded to the appropriate system, and video recording devices are returned to their charging stations. These duties may be assigned to other personnel by the incident commander as necessary.

#### **After Action and Documentation of Deployments**

Commanders authorizing deployment of an armored vehicle shall notify their chain of command of the deployment as soon as is practical after the incident has been resolved. A commander who authorizes the deployment of an armored vehicle for purposes other than training or maintenance shall provide notification to the Department's Military Equipment Coordinator or designee to allow the completion of the annual military equipment report. The notification shall include a brief synopsis of the incident along with at least the following details:

- Date, time, and location
- Report and incident numbers
- Incident commander and tactical commander (if applicable)
- Scene supervisor(s)
- Which armored vehicle(s) were used
- Justification for deployment of the armored vehicle(s)
- Other controlled equipment used (e.g. patrol rifles, UAS, etc.)
- Demographic information about persons engaged at the target location (e.g., gender, race, age, membership in a vulnerable population)
- Presence or absence of media
- Description of arrests, injuries, uses of force, complaints, and/or property damage

<sup>3</sup> This includes the portable video recording devices assigned each of the Department's armored vehicles, but might include additional devices purchased for armored vehicles in the future.

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Notifications of deployment shall include dissemination of information to the Department PIO and through Department social media channels. The commander of the Special Operations Section shall maintain a record of all deployments and ensure that information about all deployments (both callout and pre-planned), including for each of the above data points, is included in the division's Annual Management Report. Dispatch shall make a log entry in incident notes when an armored vehicle is deployed in a call-out (i.e. not pre-planned), for tracking and documentation purposes.

### **Auditing, Oversight, and Transparency**

Armored vehicles are considered "controlled equipment" pursuant to Oakland Municipal Code 9.65 and some are considered "military equipment" pursuant to Government Code § 7070. As such, auditing, oversight and compliance, means for registering complaints, and transparency surrounding armored vehicles shall be controlled by DGO K-07, *Military Equipment Funding, Acquisition, and Use Policy*, which controls all equipment governed by either or both of these laws.

## **Description and Purpose**

<b>Lenco Bearcat</b>	
<b>Description</b>	An armored vehicle is a piece of law enforcement equipment that may allow officers to use non-force options to safely resolve incidents involving actual, threatened, or reasonably suspected violence using firearms or explosives. The protective capabilities of an armored vehicle greatly exceed those of a patrol vehicle and proper deployment of armored vehicles may increase the safety of the public, law enforcement officers, and other first responders. Armored vehicles provide improved cover for officers, are stocked with tools that might be needed during a critical incident, and increase the options for a safe resolution.
<b>Manufacturer's Product Description</b>	The 2008 <b>Lenco BearCat</b> is equipped with emergency lights/sirens, rotating roof hatch, electric winches, running boards, protection against chemical agents, back-up camera, battering ram attachment, CS (tear gas) deployment nozzle, Thermographic cameras, and spot/flood lights. The vehicle is armored with a 0.5 – 1.5” thick steel and ballistic windows rated to stop a 0.50 BMG round.
<b>Capabilities / How the item works</b>	Depending on construction, ballistic-rated metal or materials such as Kevlar (or a combination of both) either constitutes the body of the vehicle or is upfit into the body of the vehicle under the sheet metal exterior. Depending on the rating of the ballistic material or metal, the vehicle is capable of protecting the occupants of the vehicle from gunfire.
<b>Expected lifespan</b>	15 Years
<b>Quantity</b>	1
<b>Purpose and intended uses and/or effects</b>	Commanders (Lieutenants and above) shall only authorize the deployment of armored vehicles when the specific capabilities of the BearCat or Armored Suburban are necessary to bring an incident to a safe conclusion. Any authorized departure from an armored vehicle's place of storage shall be considered a deployment.

<b>Armored Chevrolet Suburban</b>	
<b>Description</b>	An armored vehicle is a piece of law enforcement equipment that may allow officers to use non-force options to safely resolve incidents involving actual, threatened, or reasonably suspected violence using firearms or explosives. The protective capabilities of an armored vehicle greatly exceed those of a patrol vehicle and proper deployment of armored vehicles may increase the safety of the public, law enforcement officers, and other first responders. Armored vehicles provide improved cover for officers, are stocked with tools that might be needed during a critical incident, and increase the options for a safe resolution.

<b>Manufacturer's Product Description</b>	The 2015 Chevrolet 1500 Armored Suburban is equipped with emergency lights/sirens, steel front bumper, seating capacity for 9 personnel and backup camera. The vehicle is armored with B6 level armor capable of stopping 7.62X51mm rifle round.
<b>Capabilities / How the item works</b>	Depending on construction, ballistic-rated metal or materials such as Kevlar (or a combination of both) either constitutes the body of the vehicle or is upfit into the body of the vehicle under the sheet metal exterior. Depending on the rating of the ballistic material or metal, the vehicle is capable of protecting the occupants of the vehicle from gunfire.
<b>Expected lifespan</b>	15 Years
<b>Quantity</b>	1
<b>Purpose and intended uses and/or effects</b>	Commanders (Lieutenants and above) shall only authorize the deployment of armored vehicles when the specific capabilities of the BearCat or Armored Suburban are necessary to bring an incident to a safe conclusion. Any authorized departure from an armored vehicle's place of storage shall be considered a deployment.

## **Fiscal Costs**

### ***Initial Costs***

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

**Lenco BearCat:** The cost of the Bearcat was approximately \$323,726, which was purchased through a UASI (Urban Areas Security Initiative)- US Department of Homeland Security grant.

**#1697 Armored Suburban:** The cost to obtain this item as new was ~\$140,000.

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

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

Similar to utilizing any vehicle, there are associated wear and tear and fuel costs for each deployment of an armored vehicle. The Department fuels the armored vehicles at City fuel stations; this cost is within the entire fuel budget for the OPD fleet (OPD and other City Departments work with the City's Public Works Administration for fuel).

When used by field teams (such as Patrol or the violent crime operations center VCOC), members of those teams who are already on duty (not on overtime) pick up the vehicles from their storage locations and drive the vehicles to the scene. During tactical team deployments

the tactical team may have several members who are called in on overtime; one of these members may be the one deploying the armored vehicle but this cannot be predicted before the deployment. Pursuant to [MOU](#), overtime for sworn officers is 1.5x their base pay.

### ***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.

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.

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

Each vehicle costs the Department a minimum of \$1,418 per month, which is an inter-departmental cost that is paid to the City's Public Works Administration for upkeep and maintenance of the vehicle. This ongoing cost covers wear and tear and repairs due to normal operation. Costs due to damage incurred as a result of misuse or the actions of others (e.g., persons ramming the vehicle) may not be covered by this cost nor reimbursed by the person responsible.

The Department must store each armored vehicle in a parking area that is secured from general public access; these spaces are generally used for other Department vehicle parking thus spreading the cost across the Department's fleet.

The Department and City do seek to **replace** the Bearcat armored vehicle with a comparable but differently styled armored vehicle; this will likely have a similar cost to the initial cost of the Bearcat (~\$330k).



## **Impacts**

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

#### Deliberate misuse.

Though unlikely, it is possible that Armored Vehicles 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.

Unintentional misuse of Armored Vehicles 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 Armored Vehicles 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.

## **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](#)***

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 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***

While not a specifically-requested aspect of the design, armored vehicles (as a consequence of the weight of the armor) typically cannot reach the same top speed as the commercially-available vehicles upon which they are based. Since speed is often a factor in vehicle collisions, this technical limitation of armored vehicles also serves as a de-facto safeguard against high-speed collisions.

## ***Procedural safeguards***

OPD's armored vehicle policy includes several procedural safeguards. These include prohibitions against utilization of the armored vehicles for routine patrol or crowd control, as well as prohibitions against attachments of weapons (at any time) or rams (outside of extremely limited life-threatening emergencies) to the vehicle.

In addition, OPD's policy requires the approval of a command officer at the rank of Lieutenant or above for impromptu field deployments, and at the rank of Captain or above for pre-planned deployments. The policy also requires training for operators.

Finally, OPD's policy requires the use of video recording devices that are assigned to the armored vehicles during deployments, as a means of capturing the circumstances during the use of these vehicles.

## **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.

A specific alternative to armored vehicles is to completely forgo their use. While this would result in lower direct expenditures, the alternative would necessarily increase the risk to Department personnel when confronting situations where engaged persons are armed with firearms. Other vehicles within the Department fleet do not have any ballistic protection built in.

## **Location**

Armored Vehicles 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**

Many other agencies use armored vehicles to protect their employees during the course of their duties. Throughout the United States, agencies increasingly either have their own armored vehicle or cooperatively share a vehicle with surrounding agencies through memoranda of understanding (MOUs). Santa Rosa Police Department reports that they have an MOU with a nearby agency, and refer to a tactical procedures manual in lieu of policy for their use of the armored vehicle. Other nearby agencies, such as San Francisco Police Department, Alameda County Sheriff's Office, and San Leandro Police Department, all utilize various types of armored vehicles.

While most agencies limit the use of their armored vehicles in a manner similar to Oakland (i.e., requiring supervisory approval, limiting deployment to circumstances where weapons or violence are involved or possible), some high-profile instances of controversial deployments have occurred. The most visible of these were the use of armored vehicles during crowd control by the Ferguson Police Department (MO) after the death of Michael Brown and, in the

Bay Area, the use of an armored vehicle by the Alameda County Sheriff's Office during an eviction of a group of housing protestors. These types of uses are not authorized by OPD's Armored Vehicle policy.

# TRAINING



# BULLETIN

Date of Issue / Revision  
31 Aug 22

Index Number: III-G  
Alpha Index: Crowd Control and  
Crowd Management

Evaluation Coordinator: SOS Commander  
Automatic Revision Cycle: 3 Years

*“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”*

## **OPD Crowd Control and Crowd Management Policy**

The purpose of this Training Bulletin is to set forth policy and procedures regarding crowd control and crowd management.

### **I. POLICY**

The Oakland Police Department crowd management and crowd control policy is to

- Apply the appropriate level of direction and control to protect life, property, and vital facilities;
- Maintain public peace and order; and
- Uphold constitutional rights of free speech and assembly while relying on the minimum use of physical force and authority required to address a crowd management or crowd control issue.

### **II. DEFINITIONS**

#### A. Crowd Management

Crowd management is defined as techniques used to manage lawful public assemblies before, during, and after an event for the purpose of maintaining the event's lawful status. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.

#### B. Crowd Control

Crowd control is defined as those techniques used to address unlawful public assemblies, including a display of formidable numbers of police officers, crowd containment, dispersal tactics, and arrest procedures.

#### C. First Amendment Activities

First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression.

Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, use of puppets to convey a message, street theater, and other artistic forms of

expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution (First Amendment) and the California Constitution (Article 1, Sections 2 & 3.)

All persons have the right to march, demonstrate, protest, rally, or perform other activities protected by the First Amendment of the United States Constitution and the California Constitution.

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

D. Demonstration

Demonstration is used generically in this Training Bulletin to include a wide range of First Amendment activities which require, or which may require, police traffic control, crowd management, crowd control, crowd dispersal, or enforcement actions in a crowd situation.

As used in this Training Bulletin, the term, demonstration, means a public display of a group's or individual's feeling(s) toward a person(s), idea, cause, etc. and includes, but is not limited to, marches, protests, student walk-outs, assemblies, and sit-ins. Such events and activities usually attract a crowd of persons including participants, onlookers, observers, media, and other persons who may disagree with the point of view of the activity.

E. Crowd Event or Crowd Situation

This Training Bulletin covers all crowd events or crowd situations, including sporting events, festivals, concerts, celebratory crowds, and demonstrations as defined above.

### III. GENERAL PRINCIPLES

The Oakland Police Department's Crowd Management/Crowd Control Policy consists of the general principles discussed below.

A. Planning

1. Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events.
2. The Incident Commander shall be responsible for the development of a written operations plan for known, anticipated, or planned events.
3. Any crowd control Operations Plan that calls for the deployment of chemical agents or less-lethal specialty impact munitions ("SIM", which includes what Penal Code § 13652 describes as "kinetic energy projectiles") into the field must be approved by the Chief of Police in advance of that deployment.



4. The Incident Command System shall be used for managing crowds and acts of civil disobedience.
5. Internal Affairs personnel and civilian staff shall not be included in any planning, tactical or strategy component of an anticipated crowd control or management scenario, other than to help plan for the specific role of IAD functions such as complaint intake and investigations.
6. Ensure there are sufficient Criminal Investigation Division (CID) and Internal Affairs Division (IAD) personnel that are not assigned to uniformed field assignments where a reasonable possibility of confrontation, force, or subsequent alleged misconduct or officer involved criminal complaints may occur, so that they are available for investigating such allegations.
7. The Incident Commander shall coordinate with the City Attorney's Office and County District Attorney's Office for large crowd events and when the Emergency Operations Center is activated to solicit and ensure information is current regarding but not limited to:
  - a. Criteria for unlawful assembly.
  - b. Appropriate penal codes for enforcement and arrest criteria.
  - c. Appropriate Oakland Municipal Codes for enforcement and arrest criteria.
  - d. Legal updates regarding force, search and seizure and arrest.

The Chief of Police can direct the Incident Commander to coordinate with the City Attorney's Office and County District Attorney's Office on any event occurring in the City of Oakland as needed.

8. OPD shall make every effort to follow the principle of establishing contact and communication with the event or demonstration planners.
9. Stakeholder involvement is critical to the overall success of managing crowd events and/or civil disobedience during demonstrations. If knowledge exists that a demonstration or crowd event may happen or will happen, OPD shall proactively and repeatedly make every reasonable attempt to establish and to maintain communication and cooperation with representatives or leaders of the demonstration or crowd event, without regard to whether a permit has been applied for or issued.
10. When planning for and responding to demonstrations, crowd events, and civil disobedience situations, Incident Commanders assigned to these incidents shall facilitate the involvement of stakeholders. If and when communication is established, personnel shall make every effort to identify representatives or leaders of the event and identify a primary police liaison. The primary police liaison should be requested to be in continuous contact with an assigned police representative, preferably the Incident Commander or someone with continuous access to the Incident Commander.
11. A group's failure to respond to OPD attempts to establish communication and cooperation prior to a demonstration shall not mitigate OPD's efforts to establish

liaison and positive communication with the group as early as possible at the scene of the demonstration or crowd event.

12. Spontaneous demonstrations or crowd events, which occur without prior planning and/or without prior notice to the police, present less opportunity for OPD planning and prevention efforts. Nonetheless, the same policies and regulations concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder apply to a spontaneous demonstration or crowd event situation as to a planned demonstration or crowd event. Incident Commanders shall involve representatives of demonstrators or crowd events when planning and responding to both planned and spontaneous events.

B. Deployment

1. Decisions about crowd dispersal and general strategies about crowd containment or crowd redirection, multiple simultaneous arrests, planned individual arrests, or planned use of force shall be made at the level of the Operations Chief, the Incident Commander or higher.
  - a. If such decisions are made by higher ranking off-site OPD officials, it is required that the Incident Commander first be consulted about the state of affairs in the field and the potential consequences of the decision.
  - b. All such decisions shall be documented in writing with regard to time, the identity of the person making the decision, and the precise decision and directions given. Such documentation shall be made at the time of the decision or as soon thereafter as possible and included in an After-Action Report.

This directive shall not preclude individual commanders, supervisors, and officers from defending themselves or others from imminent danger, within the confines of the law<sup>1</sup>, when the delay in requesting permission to take action would increase the risk of injury.

2. OPD recognizes that the designated police liaison may change during the course of an event and that leadership of certain groups may not exist nor desire to be identified. No retaliatory practices or adverse action shall be taken by OPD against a group because it has failed or refused to appoint a police liaison or otherwise establish lines of communication with OPD.
3. Communication with the identified police liaison shall continue even if enforcement actions commence.
4. As staffing permits, officers should be deployed to the best available vantage points to observe and report crowd actions.
5. Lines of control should be established, especially in events that involve protesters with opposing views. Whenever possible, hostile factions should be separated.
6. Considering the type of crowd involved is an important factor in responding properly to its behavior.

<sup>1</sup> Penal Code § 13652(b) - Use of kinetic energy projectiles and chemical agents.

7. Crowds may vary from cooperative or celebratory to non-compliant, hostile, and combative. Organized demonstrations in which some engage in coordinated, nonviolent civil disobedience should be distinguished, to the extent possible, from crowds in which substantial numbers of people are engaged in other types of unlawful acts.

C. Policing a Crowd

1. Sufficient resources to make multiple simultaneous arrests should be available at demonstrations where such arrests are a reasonable possibility. However, this need must be balanced against the fact that a large and visible police presence may have a chilling effect on the exercise of free speech rights.
2. When possible, officers should be at their posts well in advance of arriving participants. If possible, officers should be positioned at a reasonable distance from the crowd to avoid a perception of intimidation.
3. In general, OPD officers shall work together in squads or platoons when policing a demonstration.
4. Each officer shall wear a badge, nameplate, or other device on the outside of his or her uniform or on his or her helmet which bears the identification number or the name of the officer, as required by Penal Code § 830.10.

The number or name shall be clearly visible at all times. The letters or numerals on helmets, jackets, and vests shall be clearly legible at a distance sufficient to provide a measure of safety for both officers and demonstrators/observers and, in no case, shall be less than two inches in height on helmets.

5. Crowd control helmets shall be maintained by each sworn member. Each member's helmet shall have their serial number on both sides and clearly visible.

**Purpose:** Crowd Control Helmets should only be used during a protest or demonstration to protect members head and eyes from thrown objects.

**Authorization:** Crowd control helmets should be used at the authorization of a commander or supervisor. Members do not have to wait for objects to be thrown before authorizing/donning helmets. In the event of exigent circumstances, officers can don crowd control helmets to protect themselves.

**Training:** Only sworn members who have completed the Crowd Control Training and graduated from a Post Academy and can wear a crowd control helmet.

**Prohibited Use:** Crowd Control helmets shall not be used unless there is an articulable reason to wear them in public view.

The use of the helmets will be documented in the Incident Commander's after-action report as required by OMC 9.65.

6. Every OPD police officer shall utilize a body-worn camera device (BWC) and shall have that device activated whenever taking any enforcement action or when

ordered to activate their BWC by a supervisor or commander during a crowd control situation in the City of Oakland.

7. Crowd control and crowd dispersal, as well as a show of force in crowd control situations, should be accomplished whenever possible using specialized units of OPD rather than on-duty patrol officers.
8. Regardless of whether a parade permit has been obtained, OPD officers will try to facilitate demonstrations that may temporarily block traffic and/or otherwise use public streets subject to time, place, and manner of circumstances, by regulating and/or rerouting traffic as much as practical.

For a demonstration without a pre-planned route, the Incident Commander shall evaluate the size of the crowd with regard to whether demonstrators should be required to stay on the sidewalk or whether demonstrators should be allowed to be in one or more lanes of traffic.

This directive does not mean demonstrations must be allowed to deliberately disrupt commuter traffic and/or bridge approaches.

The Incident Commander shall balance the level of disruption to traffic against the OPD policy of facilitating First Amendment activity, the practicality of relegating the crowd to sidewalks or an alternate route, the expected duration of the disruption, and the traffic disruption expected in making a mass arrest if demonstrators refuse to leave the street.

OPD shall seek to communicate with organizers through their police liaison to resolve a problem if possible. Traffic control may also be essential at varying points in a demonstration and may help accomplish crowd containment, crowd isolation, or crowd dispersal.

9. It is essential to recognize that all members of a crowd of demonstrators are not the same.

Even when some members of a crowd engage in violence or destruction of property, other members of the crowd are not participating in those acts. Once some members of a crowd become violent, the situation often turns chaotic, and many individuals in the crowd who do not want to participate in the violent or destructive acts may be blocked from leaving the scene because the crowd is so large or because they are afraid they will move into a position of heightened danger.

This understanding does not mean OPD cannot take enforcement action against the crowd as permitted under this policy, but OPD shall seek to minimize the risk that force and arrests may be directed at innocent persons.

Verbal abuse against officers shall not constitute a reason for an arrest or for any use of force against such individuals. Officers shall avoid responding to abusive comments

10. Officers must not be affected by the content of the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, or affiliation of anyone exercising their lawful rights.

11. Department personnel must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members. Unprofessional police behavior can inflame a tense situation and make control efforts more difficult and dangerous.

Strong supervision and command are essential to maintaining unified, measured, and effective police response. A response incorporating strong leadership and based upon teamwork is crucial to maintaining control and safety. Impulsive or independent actions by officers are to be avoided.

12. Officers in non-violent crowd situations shall not display weapons before a dispersal order is given or other enforcement action is implemented.
13. OPD officers shall not be sent into an obviously hostile crowd solely for the purpose of communication. OPD officers shall not penetrate a crowd for an individual arrest unless the targeted individual is involved in criminal conduct which endangers persons or property, and the decision to move into the crowd is made by a supervisor or commander.
14. The Incident Commander and supervisors shall make every effort to ensure that the police mission is accomplished as efficiently and unobtrusively as possible with the highest regard for the human dignity and liberty of all persons and with minimal reliance on the use of physical force.

The use of force shall be restricted to circumstances authorized by law and to the degree reasonably necessary in light of the circumstances confronting members. This directive does not preclude police officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and employ the physical force necessary to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

#### **IV. RESPONSES TO CROWD SITUATIONS**

##### **A. Spontaneous Event or Incident**

1. The Watch Commander shall respond to the scene of spontaneous events, when practical, and take command of the incident as the Incident Commander until relieved by a ranking officer.
2. The Incident Commander shall declare over the police radio that he or she has assumed command of the incident. When practical, a command post shall be established as soon as possible.
3. An immediate assessment of the situation is essential for effective police response. The Incident Commander must ascertain the following information at the earliest possible time:
  - a. The location and type of event.
  - b. First Amendment activities will be evaluated by the Incident Commander to determine lawfulness of the actions by groups and individuals.

- c. The approximate number of specific individuals engaged in unlawful conduct.
- d. The likelihood that unlawful behavior will spread to other crowd participants (mimicking).
- e. Immediate threats to the safety of the public and/or police officers.
- f. The number of structure(s) or vehicle(s) involved.
- g. The size of the involved area.
- h. The number of additional officers and police resources needed as well as requirements for specialized units (Traffic, Tactical Operations Team, Crime Reduction Teams, etc.).
- i. The appropriate manner of response (Code 2 or 3).
- j. The staging area.
- k. The location for a media staging area.
- l. The ingress and egress routes.
- m. Additional resources needed (paramedic, fire department, outside agencies, etc.).

**B. Planned Event Involving Potentially Large Crowds**

1. Upon notification, the Special Operations Commander or designee (Incident Commander) shall develop a written operations plan.

The Incident Commander of planned events shall be responsible for the overall coordination of the event as well as for crowd control and management.

Operations plans for large events requiring the redeployment of personnel from regular assignments shall be approved by a Deputy Chief of Field Operations.

2. The following factors shall be considered and addressed in developing the operations plan for a large crowd event, including but not limited to:
  - a. What type of event is to occur?
  - b. Who are the organizers? What is their past record of conduct (peaceful, violent, cooperative, etc.)?
  - c. Will outsiders visibly and/or physically oppose the planned event?
  - d. Will the event involve the use or abuse of alcohol or other substances?
  - e. Where is the event to occur? Consider the size, location, and ingress and egress points.
  - f. What is the optimal site for a command post as well as staging areas?

- g. Have the appropriate permits been issued?
- h. Have other agencies, bureaus, and divisions been notified and included in the planning process (paramedics, fire department, Communications, Intel, etc.)?
- i. Will the EOC be needed? Is Mutual Aid needed?
- j. Will off-duty personnel be involved? Has the commander of any off-duty personnel been made part of the planning process?
- k. Is it possible and appropriate to coordinate with group organizers and explain the Department's mission, preparation, and potential responses?

Information considered sensitive or confidential shall not be released to group organizers if it will jeopardize the safety or effectiveness of police personnel.

- l. Have the proper number of personnel been scheduled to safely handle the event? Should a reserve force be available?
  - m. Has an enforcement policy been formulated and communicated to affected personnel?
3. The OPD Event Coordinator and/or Incident Commander or designee shall perform the following tasks.
- a. Gather and analyze intelligence information about future crowd events, including review of information from both internal and external sources.
  - b. Coordinate with Special Events regarding permits and various Department sections, including bureaus, divisions, and specialized units, to prepare for a planned special event.
  - c. Meet in advance with event sponsors and group leaders to exchange information and to present the Department's philosophy and intent. Details of the department plan and preparation shall not be disclosed except when necessary to ensure success of the operation.
  - d. Coordinate with affected bureaus, divisions, police service areas, and special units to prepare and coordinate the development of an operations plan for a given event that details assignments, traffic and crowd flow, communications, tactics, and training.
  - e. Prepare operations plan as requested.
  - f. Coordinate inspection of protest/event area prior to an event to locate any pre-positioned equipment staged by demonstrators.
  - g. Ensure that appropriate equipment and supplies are available.
  - h. Ensure that a video team(s) is established and required video equipment is available (see Section XI.)

- i. Establish protocols and procedures for the processing of arrestees and collection of evidence.
- 4. Personnel creating an operations plan to address a large crowd event should anticipate a variety of scenarios and devise a police response for each. Such scenarios and responses should be made part of the final plan and communicated to the affected personnel.
- 5. When practical, personnel preparing for a large event with the potential for violence shall be retrained; training to include physically practicing various aspects of crowd management and crowd control.

Topics may include but are not limited to Mobile Field Force (MFF), multiple simultaneous arrest procedures, functioning in a tear gas environment, use of specialty impact munitions, applicable ordinances and statutes, protected speech, etc.

- 6. Personnel shall be briefed on the operations plan and their particular assignments before deployment.

Specific instructions covering topics such as applicable laws, community concerns, appropriate enforcement actions, chain of command, tactics, traffic patterns, etc., shall be clearly presented to personnel. All personnel shall be given a copy of the operations plan.

## **V. PERMISSIBLE CROWD CONTROL AND CROWD DISPERSAL TECHNIQUES**

*Kinetic energy projectiles and chemical agents shall not be used by any member to disperse any assembly, protest, or demonstration.*

- A. In the event of a declared unlawful assembly, it is the general policy of the OPD to use multiple simultaneous arrests to deal with a non-violent demonstration that fails to disperse and voluntarily submits to arrest as a form of political protest rather than dispersing the demonstrators by using weapons or force beyond that necessary to make the arrests.
- B. The Incident Commander or Operations Chief shall make the final decision as to what control action, if any, will be taken to address a given crowd situation.

Crowd size and available Department resources will also factor into the police response. The following factors will be considered prior to determining what action to take:

- 1. Will police action likely improve the situation?
- 2. Will targeting specific violent or disruptive individuals for arrest be more effective or appropriate than applying control tactics to the entire crowd?
- 3. Are sufficient resources available to effectively manage the incident?



4. Have clear and secure escape routes been established for both the crowd and the police?
  5. Has the dispersal order been given (loudspeaker, personal contact, etc.)?
  6. Have contingency plans been established in the event initial police efforts are ineffective?
- C. Commanders shall constantly reassess and adjust tactics, as necessary, as the crowd's actions change.
- D. The Incident Commander or Operations Chief shall consider and take reasonable and appropriate steps to ensure the safety of bystanders.
- E. When officers take action to move or disperse a crowd, steps should be taken to ensure that the crowd is not moved into a position or place that could be dangerous to persons in the crowd or bystanders, such as pushing them up against glass windows.
- F. When an Unlawful Assembly May Be Declared
1. The definition of an unlawful assembly has been set forth in Penal Code Section 407 and interpreted by court decisions. The terms, "boisterous" and "tumultuous," as written in Penal Code Section 407, have been interpreted as "conduct that poses a clear and present danger of imminent violence" or when the demonstration or crowd event is for the purpose of committing a criminal act.  
  
The police may not disperse a demonstration or crowd event before demonstrators have acted illegally or before the demonstrators pose a clear and present danger of imminent violence.
  2. The mere failure to obtain a permit, such as a parade permit or sound permit is not a sufficient basis to declare an unlawful assembly. There must be criminal activity or a clear and present danger of imminent violence.
  3. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.
  4. Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques shall not be initiated until after attempts have been made through contacts with the police liaisons and demonstration or crowd event leaders to negotiate a resolution of the situation so that the unlawful activity will cease and the First Amendment activity can continue.
  5. If after a crowd disperses pursuant to a declaration of unlawful assembly and subsequently participants assemble at a different geographic location where the participants are engaged in non-violent and lawful First Amendment activity, such an assembly cannot be dispersed unless it has been determined that it is an unlawful assembly and the required official declaration has been adequately given.
- G. Declaration of Unlawful Assembly

1. When the only violation present is unlawful assembly, the crowd should be given an opportunity to disperse rather than face arrest.

Crowd dispersal techniques shall not be initiated until OPD has made repeated announcements to the crowd, asking members of the crowd to voluntarily disperse and informing them that, if they do not disperse, they will be subject to arrest.

These announcements must be made using adequate sound amplification equipment in a manner that will ensure that they are audible over a sufficient area.

Announcements must be made from different locations when the demonstration is large and noisy. The dispersal orders should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements shall also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.

It is the responsibility of the on scene OPD commanders to ensure that all such announcements are made in such a way that they are clearly audible to the crowd.

2. Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with police commands before action is taken.
3. Dispersal orders should be given in English and in other languages that are appropriate for the audience.
4. The authorizing commander for the dispersal order should ensure that the name of the individual making the dispersal order and the date/time each order was given is recorded.
5. Dispersal orders should not be given until officers are in position to support/direct crowd movement.
6. Personnel shall use the following Departmental dispersal order:

I am (rank/name), a peace officer for the City of Oakland. I hereby declare this to be an unlawful assembly, and in the name of the people of the State of California, command all those assembled at to immediately leave. If you do not do so, you may be arrested or subject to other police action, including the use of force which may result in serious injury.

Section 409 of the Penal Code prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Section 409. The following routes of dispersal are available (routes). You have (specify amount) minutes to leave. If you refuse to move, you will be arrested.

**Note:** Repeated, audible announcements shall be made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when

objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.<sup>2</sup>

7. When a command decision is made to employ crowd dispersal techniques, attempts to obtain voluntary compliance through announcements and attempts to obtain cooperation through negotiation shall both be continued. At any point at which a crowd is dispersing, whether as a reaction to police dispersal techniques, through voluntary compliance, or as a result of discussion or negotiation with crowd leaders, OPD dispersal techniques shall be suspended, and the crowd shall be allowed to disperse voluntarily. This directive does not preclude a command decision by OPD to reinstate dispersal techniques if crowd compliance ceases.

Note: The LRAD's warning tone should not be used for prolonged periods of time (more than 5 seconds).

#### H. Approved Tactics and Weapons to Disperse or Control a Non-Compliant Crowd

If negotiation and verbal announcements to disperse do not result in voluntary movement of the crowd, officers may employ additional crowd dispersal tactics, but only after orders from the Incident Commander or designated supervisory officials.

The permissible tactics to disperse or control a non-compliant crowd include all of the following (not in any specific order of use):

The use of these crowd dispersal tactics shall be consistent with the Department policy of using the minimal police intervention needed to address a crowd management or control issue in accordance with Department General Order K-3, USE OF FORCE.

1. Display of police officers (forceful presence).

A police formation may be moved as a unit to an area within the crowd's view to assist with crowd management. If a display of police officers, motorcycles, police vehicles, and mobile field forces, combined with a dispersal order, is not effective, more forceful actions may be employed.

Generally, officers should be assigned to squads of sufficient size to be effective. At larger events, the crowd can be divided (with a commander in charge of each squad).

2. Encirclement and Arrest

If the crowd has failed to disperse after the required announcements, officers may encircle the crowd or a portion of the crowd for purposes of making multiple simultaneous arrests (see Section VIII).

Persons who make it clear (e.g., by sitting down, locking arms) that they seek to be arrested shall be arrested and not subjected to other dispersal techniques, such as the use of batons or chemical agents.

<sup>2</sup> Penal Code § 13652(b)(2).

Arrests of non-violent persons shall be accomplished by verbal commands and persuasion, handcuffing, lifting, carrying, the use of dollies and/or stretchers, and/or the use of control holds including the bent-wrist control hold and twist-lock control hold (See Training Bulletin III-I.1, WEAPONLESS DEFENSE, pages 28-31.)

When dealing with non-violent or passive persons, control holds should only be used when a Supervisor or Commander determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

In the event control holds are necessary, precautions should be taken to assure that arrestees are not injured or subjected to unnecessary or excessive pain.

A decision to authorize control holds and the reasons for said decision should be documented.

### 3. Police Formations and Use of Batons

- a. If a crowd refuses to disperse after the required announcements, the police may use squad or platoon formations (skirmish line, wedge, echelons, etc.) to move the crowd along.
- b. Batons shall not be used for crowd control, crowd containment, or crowd dispersal except as specified below.
- c. Batons may be visibly displayed and held in a ready position during squad or platoon formations.
- d. Batons shall only be used as set forth in Department General Order K-3, USE OF FORCE and Department Training Bulletin III-H.2, USE OF THE LONG BATON.

Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine, or groin or jab with force to the left armpit except when the person's conduct is creating an immediate threat of serious bodily injury or death to an officer or any other person. Batons shall not be used against a person who is handcuffed.

### 4. Weapon launch / Device Deployed Chemical Agent and Hand-Thrown Chemical Agents (Pyrotechnic and Blast Chemical Agent Devices)

Per Penal Code § 13652(a) - kinetic energy projectiles and chemical agents shall not be used by any member to disperse any assembly, protest, or demonstration.

Crowd control chemical agents are those chemical agents designed and intended to move or stop large numbers of individuals in a crowd situation and administered in the form of a delivery system which emits the chemical agent diffusely without targeting a specific individual or individuals.

Chemical agents can produce serious injuries or even death. The elderly person or infant in the crowd or the individual with asthma or other breathing disorder may have a fatal reaction to chemical agents even when those chemical agents are used in accordance with the manufacturer's recommendations and the Department's training.

The use of hand thrown chemical agents or pyrotechnic gas dispersal devices may present a risk of permanent loss of hearing or serious bodily injury from shrapnel. Said devices shall be deployed to explode at a safe distance from the crowd to minimize the risk of personal injury and to move the crowd in the direction that will accomplish the policing objective.

- a. Only trained and currently qualified members are authorized to use chemical agents.
- b. Chemical agents shall not be used in demonstrations or other crowd events without the authorization of a commanding officer or Incident Commander. If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas.
- c. Chemical agents shall only be used if the use is objectively 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. As an example, an isolated incident of vandalism, without more, does not rise to the level of an objectively dangerous and unlawful situation sufficient to justify the use of crowd control chemical agents.
- d. Chemical agents shall only be used if other alternatives to force, including but not limited to extraction, encirclement, and multiple simultaneous arrests or police formations have been attempted, when objectively reasonable, and have failed.
- e. Chemical agents shall not be used for crowd control without first giving repeated, audible warnings to the crowd when objectively reasonable to do so, and providing the crowd an objectively reasonable opportunity to disperse. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- f. An objectively reasonable effort must be made to identify persons engaged in violent acts and those who are not, and crowd control chemical agents must be targeted only towards those individuals engaged in violent acts. Chemical agents shall be deployed to explode at a safe distance from the crowd to minimize the risk of personal injury. Incidental impacts on peaceful protestors, bystanders, medical personnel, journalists, or other unintended targets shall be minimized. If chemical agents are contemplated in crowd situations, Members shall have medical personnel on site prior to their use and shall make provision for decontamination and medical screening to those persons affected by the chemical agent(s). Medical assistance shall be promptly provided for injured persons when it is reasonable and safe to do so, unless that person voluntarily leaves the scene or declines medical attention.

An objectively reasonable effort will be made to extract individuals in distress.

- g. Members shall use the minimum amount of chemical agent necessary to obtain compliance in accordance with Department General Order K-3, USE OF FORCE. Chemical agents are to be used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- h. CS Blast Dispersion grenades and other hand-thrown devices emitting light, sound, and Orthochlorobenzalmalononitrile (CS) shall not be thrown directly into a crowd, at persons, or where they will explode above or near people's heads, but shall be thrown at a safe distance from persons.
- i. Penal Code section 13652's restrictions on "kinetic energy projectiles" and "chemical agents" apply to CS Blast Dispersion grenades and other hand-thrown devices emitting light, sound, and chemical agent.
- j. Chemical agents shall not be used solely due to any of the following:
  - a. A violation of an imposed curfew.
  - b. A verbal threat.
  - c. Noncompliance with a law enforcement directive.

## **VI. WEAPONS PROHIBITED FOR CROWD CONTROL AND CROWD DISPERSAL PURPOSES**

### **A. Lethal Force**

The use of lethal force by OPD members is governed by the Department's Use of Force Policy.<sup>3</sup> Nothing about a crowd control situation eliminates or changes any of the constraints and criteria governing the use of lethal force in the Department's Use of Force Policy.

### **B. Canines**

Canines shall not be used for crowd control, crowd containment, or crowd dispersal.

### **C. Horses**

Horses shall be used only for purposes of crowd control in the event of a riot involving substantial numbers of people actively engaged in violence or serious property destruction. Horses shall never be used to disperse non-violent crowds, including persons who are seated or lying down.

Horses may be used for crowd management during festivals and sporting events.

<sup>3</sup> DGO K-3

D. Fire Hoses

Fire hoses shall not be used for crowd control, crowd containment, or crowd dispersal.

E. Riot Shields

Shields may not be deployed or used until approved in accordance with OMC 9.65.

F. Motorcycles and Police Vehicles

The technique referred to as the Basic Use of Motorcycle Push Technique (B.U.M.P.) is prohibited. Motorcycles and police vehicles may not be used for crowd dispersal but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a demonstration or crowd event.

G. Specialty Impact Less-Lethal Weapons

1. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) are prohibited.

- a. Skip-fired or indirect fired less-lethal specialty impact munitions include wooden dowels, multiple wood baton rounds, stinger grenades, sting ball grenades, launched sting ball munitions, stinger rubber ball rounds, multiple foam baton rounds, multiple rubber baton rounds, multi 5-foam baton rounds, and all other devices that are designed to be skip-fired or which contain pellets or projectiles that disperse in a non-directional, non-target specific manner.
- b. No OPD officer shall use skip-fired or indirect fired less-lethal specialty impact munitions, or pepper balls, in connection with any demonstration or crowd event in Oakland.

2. Uses of Direct Fired Specialty Impact Less-Lethal Munitions (SIM)

Direct Fired SIM, also known as kinetic energy projectiles, are less-lethal specialty impact munitions that are designed to be direct fired at a specific target, including but not limited to flexible batons (“bean bags”), pepper balls, FN303s, direct impact rounds, foam rounds, foam baton rounds, exact impact rounds, sponge rounds, 40mm rubber baton rounds, and similar munitions which may or may not have a foam rubber tip. This includes kinetic energy projectiles as defined in Pen. Code § 13652, subd. (d)(1) to include items commonly referred to as “rubber bullets”.

- a. Only trained and currently qualified members are authorized to use Direct Fired SIMs.
- b. No OPD police officer shall use Direct Fired Specialty Impact Less-Lethal Munitions (SIM) for purposes of crowd management, crowd control, or crowd dispersal in connection with any demonstration or crowd event in the City of Oakland. Direct Fired SIM may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.

- c. Flexible batons, also known as bean bag or stun bag rounds, that are fired from a shotgun shall not be used at crowd events.
- d. Direct Fired SIM may be used against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to him or herself, officers, or the general public or who is engaging in substantial destruction of property which creates an immediate risk to the lives or safety of other persons.
- e. Repeated, audible announcements must be made announcing the intent to use Direct Fired SIM and the type to be used, when objectively reasonable to do so.
- f. Direct Fired SIM may not be used unless de-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed. (Pen. Code § 13652, subd. (b)(1).)
- g. Direct Fired SIM may not be used before persons are given an objectively reasonable opportunity to disperse and leave the scene. (Pen. Code § 13652, subd. (b)(3).)
- h. When circumstances permit, members shall make an attempt to accomplish the policing goal without the use of Direct Fired SIM. Direct Fired SIM shall be used only when other means of arrest are unsafe and when the individual can be targeted without endangering other crowd members or bystanders, given consideration of how close the individual is to others, whether crowd members are moving, and factors that may affect the visibility and the accuracy of shot placement, such as chemical agent deployment.
- i. The mere fact that an individual is picking up, about to throw, or throwing a chemical agent canister previously deployed by law enforcement, or other object, does not automatically constitute an immediate threat of loss of life or serious bodily injury. Among the totality of the circumstances, members must consider the size and composition of the object, the distance from which it is being thrown, and the potential effects of the object being thrown.
- j. The use of Direct Fired SIM must cease when the violent or destructive actions cease. These weapons must not be used for the purpose of apprehension or to otherwise prevent escape unless escape would present a substantial risk of continued immediate threat of loss of life or serious bodily injury.
- k. Direct Fired SIM shall not be aimed at the head, neck, spine, or any vital organ, including the spleen, liver, kidneys, throat, left arm pit, or groin. (Pen. Code § 13652, subd. (b)(9).)
- l. Kinetic energy projectiles shall not be used solely due to any of the following:
  - a. A violation of an imposed curfew.
  - b. A verbal threat.
  - c. Noncompliance with a law enforcement directive.



m. Direct Fired SIM shall not be used against a person who is under restraint.

H. Electronic Immobilizing Devices (EID)

EID's such as tasers, stun guns, and stun shields shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Officers are not restricted from using Tasers in accordance with Department General Order K-3, USE OF FORCE.

I. Aerosol Hand-held Chemical Agents

Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.

Members shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance in accordance with Department General Order K-3, USE OF FORCE.

Officers must be familiar with OPD Training Bulletin V-F.2, USE OF OLEORESIN CAPSICUM (OC), and, specifically, the risk factors associated with aerosol chemical agents and the treatment for individuals subjected to them.

Aerosol chemical agents shall not be used in a demonstration or crowd situation or other civil disorders without the approval of a supervisor or command officer.

When possible, persons should be removed quickly from any area where hand-held chemical agents have been used. Members shall monitor the subject and pay particular attention to the subject's ability to breathe following the application of OC. As soon as practical, members and employees shall obtain professional medical treatment for all persons who have had OC applied to them. Paramedics in the field may administer treatment if no other medical treatment is required. If paramedics are not available in a timely manner, subjects shall be transported to a hospital for treatment within 45 minutes of the application of OC.

A subject who has been sprayed with hand-held chemical agents shall not be left lying on his/her stomach once handcuffed or restrained with any other device.

J. Munitions Inventory Log

The Training Section shall maintain the munitions inventory log for all less-lethal munitions which are checked out during crowd control events. Officers shall update the munitions inventory log after each event to specify how many munitions were used and by which person. A copy of the inventory log shall be included in the after-action report.

**VII. MEDICAL**

Medical assistance shall be promptly provided for injured persons when it is reasonable and safe to do so. (Pen. Code § 13652, subd. (b)(8).) Any person known to be struck by a round shall be transported to a hospital for observation and any necessary treatment, unless that person voluntarily leaves the scene or declines to be transported. Ambulance service, if required, shall be ordered per Department General Order I-4, AMBULANCE SERVICE. First aid, when necessary, shall be administered per Training Bulletin III-K, FIRST AID. Members shall ensure, to the extent reasonably possible, that medical attention is available for injured persons and for people affected by crowd control chemical agents, unless that person voluntarily leaves the scene or declines medical attention.

## VIII. ARRESTS

### A. Multiple Simultaneous Arrests

1. When a large-scale event involving possible arrests is to be conducted, OPD commanders or supervisors will estimate the number of potential arrestees and will configure arrest teams capable of managing multiple arrests safely.
2. When arrests are necessary, the Incident Commander or Operations Chief shall attempt to ensure that sufficient numbers of police officers are present to effect arrests. This tactic can be effective in dispersing the remaining crowd members wanting to avoid arrest.
3. When multiple arrests are contemplated in advance and it is impracticable for arrestees to be cited at the scene as further discussed below, pre-arrangement of transportation shall be made.
4. The Incident Commander or his/her designee shall make the decisions to engage in selective individual arrests or multiple simultaneous arrests as a crowd control technique with consideration given to the following factors:
  - The likelihood that police action will improve the situation relative to taking no action.
  - The seriousness of the offense(s) as opposed to the potential for the arrest to escalate violence or unlawful activity by crowd members.
  - Whether individual or mass arrests will be more effective in ending the criminal activity at issue.
  - Whether clear and secure escape routes have been established for the crowd and police.
  - Whether communication has been established with crowd representatives.
  - What contingency plans are available?
  - What types of force can be used in effecting the arrests, if necessary.
5. Probable cause for each individual arrest:

Individuals may not be arrested based on their association with a crowd in which unlawful activity has occurred. There must be probable cause for each individual arrest.

This principle means the officer must have objective facts based on his own knowledge or information given him by other officers sufficient to believe that each specific individual being arrested committed the offense.

Thus, the only proper basis for a multiple simultaneous arrest of all the individuals encircled at a demonstration is failure to disperse (Pen. Code §409), when the dispersal was properly ordered based on the existence of an unlawful assembly and adequate notice and opportunity to disperse has been given.

To make arrests for violating Vehicle Code §2800 (non-compliance with lawful police order), the officer must have probable cause to believe that each individual arrested willfully failed or refused to comply with a lawful order.

6. The Incident Commander or Operations Chief shall ensure that evidentiary items are recovered and preserved, when possible, to corroborate unlawful acts observed by personnel.

#### B. Arrests for Civil Disobedience

1. Some demonstrators commit "civil disobedience," by sitting down or otherwise blocking streets, intersections, sidewalks, and/or entranceways or by occupying a targeted office.

The proper response to such actions is to verbally advise the demonstrators that they will be subject to arrest if they choose to remain, allow time for some or all the demonstrators to cease the unlawful activity, and to arrest those who deliberately remain in violation of the law.

When practical, demonstrators committing civil disobedience shall be persuaded into compliance rather than being forcibly removed.

2. Passively resisting arrestees (i.e., arrestees who go limp) shall be arrested by handcuffing and then either by verbal persuasion, lifting, carrying, the use of dollies or stretchers, and/or control holds (See Training Bulletin III-I.1, WEAPONLESS DEFENSE, pages 28 - 31) depending on the circumstances and the decision of the Supervisor.

Control holds should be used only when the Supervisor determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

In the event control holds are necessary, precautions must be taken to ensure that arrestees are not injured or subjected to unnecessary or excessive pain.

A Supervisor's decision to authorize control holds and the reasons for said decision should be documented.

Planning for demonstrations where civil disobedience and passive resistance to arrest are a possibility should take into account these different arrest techniques for passive demonstrators.

3. In some cases, demonstrators may lock arms or use lock boxes to slow down the arrest process.

Where such demonstrators have been advised that they will be subject to arrest if they choose to remain and refuse to disperse, a member of the arrest team shall individually advise each demonstrator that he or she is under arrest prior to the application of any force to remove locking devices or to move the demonstrators. The officer shall continue to give verbal directions to give the arrestee a chance to comply before force is used to unlock arms or implements used to remove lock boxes.

4. Although dealing with passive resistance may frustrate officers, civil disobedience is usually a nonviolent means of making a political statement, and officers shall remain neutral, non-antagonistic, and professional at all times in their response.

C. Use of Handcuffs

1. All persons subject to arrest during a demonstration or crowd event shall be handcuffed in accordance with department policy, orders, and Training Bulletins.
2. Officers should be cognizant that flex-cuffs may tighten when arrestees' hands swell or move, sometimes simply in response to pain from the cuffs themselves.

Each unit involved in detention and/or transportation of arrestees with flex-cuffs should have a flex-cuff cutter and adequate supplies of extra flex-cuffs readily available. The officer applying flex-cuffs shall write his serial number in indelible marker on the cuffs whenever used. When arrestees complain of pain from overly tight flex cuffs, members shall examine the cuffs to ensure proper fit

D. Arrest of Juveniles

Juveniles arrested in demonstrations shall be handled consistent with OPD policy on arrest, transportation, and detention of juveniles.

## **IX. CITE/RELEASE AND BOOKING PROCEDURES**

- A. Individuals arrested for minor offenses may be cited and released in compliance with Penal Code §853.6 and Department General Order M-7, CITATIONS FOR ADULT MISDEMEANORS, Part III, A-N.
- B. When it is impractical to cite arrestees at or near the site of the demonstration because of a substantial risk that this procedure would allow the unlawful activity to continue or because of specific geographic factors, officers may cite and release arrestees from temporary processing stations or police facilities as near the site of the arrest as possible. While detained during the citation and release process, arrestees shall have reasonable access to toilet facilities and to appropriate medical attention.
- C. No fingerprinting will be done as part of the citation and release process. Arrestees may be instructed to appear for booking prior to or after arraignment.

Commanders shall exercise discretion as to whether property searches are necessary. Property of persons who qualify for citation and release will not be confiscated unless it is found to contain contraband. The intention of this policy is to release citation-

eligible arrestees as promptly as possible, and to obviate the need to transfer such arrestees to the Sheriff's custody. Persons for whom a valid warrant is confirmed, or who do not produce valid identification or who are otherwise found ineligible for citation will be transferred to the Sheriff's custody.

- D. An officer seeking to book a misdemeanor arrestee into jail must have an articulable basis to believe that one of the specified statutory exceptions to mandatory cite and release applies to that individual. This basis must be documented in the police report.
- E. The mere fact that further demonstrations are likely to be held in the near future is not a proper basis to apply subdivision (7) of P.C. 853.6 ("reasonable likelihood that the offense may continue or resume") to individual demonstrators.
- F. There must be an articulable objective basis to believe that, if cited out, those specific individuals would continue the same illegal activity for which they were arrested.
- G. Individuals may not be booked into jail on the sole basis of a felony charge consisting of conspiracy to commit a misdemeanor.

## **X. MUTUAL AID & MULTI-AGENCY COORDINATION**

For large demonstrations and mass gatherings, OPD may be required to rely on Mutual Aid agencies for assistance (see DGO L-3, ASSISTANCE TO OUTSIDE JURISDICTIONS AND MUTUAL AID.) The Department is responsible for following the protocols of the Mutual Aid Plan in accordance with the California Emergency Services Act, commencing at Government Code Section 8550, for contacting law enforcement partners for assistance. Department leaders and commanders should be familiar with the process and responsibilities of requesting and receiving law enforcement mutual aid. See, the Law Enforcement Mutual Aid Plan and its companion document, Law Enforcement Guide for Emergency Operations, at [www.calema.ca.gov](http://www.calema.ca.gov).

On any occasion in which the Oakland Police Department requests mutual law enforcement aid for large demonstrations and mass gatherings, OPD shall do the following:

1. Ensure mutual aid agencies are briefed and provided a copy of OPD's Crowd Control Policy.
2. Provide copies of the injunction entered in *Anti Police-Terror Project v. City of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS.<sup>4</sup>
3. Brief mutual aid agencies on OPD's Unity of Command structure and, to the extent possible, ensure mutual aid agencies are in agreement with it.

Under OPD's Unity of Command structure, only OPD Commanders may authorize the use of chemical agents for crowd control and dispersal. However, OPD officers and mutual aid officers may use reasonable or necessary force as allowed by law<sup>5</sup> against an individual in self-defense or in defense of another person or officer.

<sup>4</sup> Commanders or designees shall email a copy of the injunction before the operation.

<sup>5</sup> Penal Code § 13652(b)

4. Inventory the types of less-lethal crowd control weapons brought by mutual aid agencies. Should a mutual aid agency bring less-lethal crowd control weapons that are not authorized under OPD's Crowd Control Policy, OPD shall do the following:
  - a. Require those agencies to quarantine the weapons that are not authorized; or
  - b. Assign officers of those agencies to support functions that will not have primary contact with crowds and thus are not likely to involve the use of crowd control weapons not authorized by OPD, unless there is a public safety emergency.
5. While OPD cannot direct or control all uses of force by officers of mutual aid agencies, to the extent possible, OPD shall ensure that officers of mutual aid agencies do not use weapons or force that is prohibited under OPD's Crowd Control Policy.
6. Ensure all OPD pathfinder officers are assigned a body-worn camera device (BWC) regardless of rank. The BWC shall be used in accordance with Department policy.<sup>6</sup>

To the extent possible and/or unless there is a public safety emergency, outside law enforcement units shall not be assigned to front-line positions or used for crowd intervention, control, or dispersal, and shall be:

- a. Deployed as a unit in order to maintain department and unit integrity; and
  - b. Used for infrastructure protection, custody and control of arrestees, perimeter security, fixed post positions, etc.
7. Ensure mutual aid agencies provide the following information prior to being released from duty: Uses of force, arrests, any crime report numbers, injuries, equipment damage, and list of responding personnel.

## **XI. DOCUMENTATION**

### **A. Video and Photographic Recording**

1. It is the policy of the Department to videotape and photograph in a manner that minimizes interference with people lawfully participating in First Amendment activities.

Videotaping and photographing of First Amendment activities shall take place only when authorized by the Incident Commander or other supervisory officer.

Officers shall utilize their Personal Digital Recording Device (PDRD) in accordance with DGO I-15.1, PORTABLE VIDEO MANAGEMENT SYSTEM. In addition, officers shall activate their BWCs whenever taking any enforcement action during a crowd control situation or when ordered to activate their BWC by a supervisor or commander.

<sup>6</sup> I-15.1, Portable Video Management System

2. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers, or speakers.
3. Each camcorder operator shall write a supplemental report at the end of his/her duty assignment documenting the camcorder operations.
4. Unless they provide evidence of criminal activity, videos or photographs of demonstrations shall not be disseminated to other government agencies, including federal, state, and local law enforcement agencies. If videos or photographs are disseminated or shared with another law enforcement agency, a record should be created and maintained noting the date and recipient of the information.
5. If there are no pending criminal prosecutions arising from the demonstration or if the video recording or photographing is not relevant to an Internal Affairs or citizen complaint investigation or proceedings or to civil litigation arising from police conduct at the demonstration, the video recording and/or photographs shall be destroyed in accordance with Department and city policies.

This directive shall not prohibit the OPD from using these videos or footage from such videos as part of training materials for OPD officers in crowd control and crowd dispersal techniques and procedures. The destruction of any such videos or photographs shall be documented in writing with regard to the date of the destruction and the identity of the person who carried it out.

6. Nothing in this section is intended to alter the disclosure requirements of the California Public Records Act (Government Code §6250 et seq.) or the City of Oakland's Sunshine Ordinance (O.M.C. §2.20 et seq.)

## **XII. REPORTING**

- A. The Incident Commander shall ensure that the Deputy Chief of the Bureau of Field Operations is notified of the incident in a timely manner.
- B. The Incident Commander shall ensure that a debrief is conducted within 72 hours of the critical incident.
- C. The Incident Commander shall evaluate the need for an After-Action report which outlines the lessons learned and training opportunities, as well as an assessment of the effectiveness and quality of the Operations Plans. An After-Action Report will be completed within 30 days of the event if one of the following events occurs:
  1. Mutual Aid is requested;
  2. An unlawful assembly is declared;
  3. Arrests are made for acts of civil disobedience;
  4. Significant police resources are used to control the event; or
  5. Chemical agents or SIMS are used.
- D. The Operations Plan and After-Action Reports shall be reviewed by the chain of command and forwarded to the following:

- Crowd Control Coordinator
  - Uploaded on the shared drive
  - Paper copies forward to Records
- E. Incident Commanders shall input the required information into the Crowd Control spreadsheet.

### **XIII. PUBLIC INFORMATION AND THE MEDIA**

The media have a right to cover demonstrations, including the right to record the event on video, film, or in photographs. Members shall accommodate the media in accordance with Department policy.

The media shall be permitted to observe and shall be permitted close enough access to the arrestees to record their names. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties in any area where arrests are being made unless their presence would unduly interfere with the enforcement action.

Self-identified legal observers and crowd monitors do not have the same legal status as the professional media and are, therefore, subject to all laws and orders similar to any other person or citizen. Said personnel must comply with all dispersal orders similar to any other person or citizen. A supervisor or commander may allow a person who self-identifies as a legal observer or crowd monitor to remain in an area after a dispersal order if circumstances permit and if the person's presence would not unduly interfere with the enforcement action.

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in activity that is protected pursuant to the First Amendment to the United States Constitution or Article I of the California Constitution, the following requirements shall apply:

- (1) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section.
- (2) A peace officer or other law enforcement officer shall not intentionally assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.
- (3) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of paragraph (1) of subdivision (a) of Section 148, for gathering, receiving, or processing information. If the duly authorized representative is detained by a peace officer or other law enforcement officer, that representative shall be permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.



This section does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.<sup>7</sup> The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.

#### **XIV. TRAINING**

- A. All OPD crowd control policies and procedures shall be set forth in a Crowd Control Training Bulletin.

All other OPD orders and Training Bulletins will be reviewed to ensure consistency with the new policy and Training Bulletin.

- B. All officers must receive training consistent with these new policies and procedures.

All training on crowd control shall include substantial coverage of these Department policies. No officers shall use less-lethal weapons unless they have received the training required by Department policies.

- C. Every OPD officer shall receive this training.

Either independently or in conjunction with other scheduled training, each officer shall receive periodic instruction regarding the key elements of this policy. The Department will seek to improve its ability to manage crowd control events through study and evaluation of past incidents occurring in Oakland and other jurisdictions. Training in crowd management is crucial and shall be an ongoing process. All members of OPD shall be trained in these crowd control policies and procedures and shall then receive additional periodic crowd control refresher training thereafter. Crowd control training shall also become an integral part of the recruit academy curriculum.

- D. All training called for in this section shall be documented with regard to individual officer attendance, dates of training, test scores or other evidence of successful completion of training, and identity of each instructor, and copies of both student curriculum materials and instructor curriculum materials shall be archived.
- E. From 2023 to 2028, every 18 months OPD shall conduct a special training session for the Chief of Police, all Deputy and Assistant Chiefs, Incident Commanders, Operations Commanders, and Tango Team members concerning Training Bulletin III-G and the injunction entered in *Anti Police-Terror Project v. City of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS<sup>8</sup>.

#### **XV. CROWD MANAGEMENT COORDINATOR (CMC)**

- A. The Chief of Police shall designate a Departmental Crowd Management Coordinator whose responsibilities will include:

1. Coordinating the training of personnel on crowd control, planning, operations and after-action reporting.

<sup>7</sup> Penal Code § 409.7.

<sup>8</sup> Plaintiffs' counsel shall be provided the opportunity to provide input into the curriculum for the special training sessions and to attend those sessions.

2. Conducting reviews of crowd control policies and case law.
3. Conducting quarterly reviews of all crowd control incidents and their respective operation plans and after-action reports and providing a quarterly report to the Chief of Police. In the course of the producing the quarterly reports, the Crowd Management Coordinator shall:
  - a. Look to identify training points for publication in Training Bulletins;
  - b. Look to identify Departmental training needs;
  - c. Ensure Departmental policy and training comports with new case law and industry standards;
  - d. Ensure that the City Attorney and District Attorney are consulted when revising Departmental policy and planning Departmental training on crowd control and management and related topics; and
  - e. Produce a non-classified public quarterly crowd control report

The Department shall, within 60 days of each incident, publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent, as those terms are defined in Section 13652, for crowd control. However, an agency may extend that period for another 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.<sup>9</sup>

For each incident reported the summary shall be limited to that information known to the agency at the time of the report and shall include only the following:

- (1) A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.
  - (2) The type of kinetic energy projectile or chemical agent deployed.
  - (3) The number of rounds or quantity of chemical agent dispersed, as applicable.
  - (4) The number of documented injuries as a result of the kinetic energy projectile or chemical agent deployment.
  - (5) The justification for using the kinetic energy projectile or chemical agent, including any de-escalation tactics or protocols and other measures that were taken at the time of the event to deescalate tensions and avoid the necessity of using the kinetic energy projectile or chemical agent.
- B. This crowd control policy is impacted by settlements and court orders in the following cases: *Coles v. City of Oakland*, N.D. Cal. Case No. C03-2961 TEH; *Local 10, Int'l Longshore and Warehouse Union v. City of Oakland*, N.D. Cal. Case No. C03-2962 TEH; *Spalding v. City of Oakland*, N.D. Cal. Case No. C11-2867 TEH; *Campbell v. City of Oakland*, N.D. Cal. Case No. C11-5498 JST; *Anti Police-Terror Project v. City*

<sup>9</sup> Penal Code § 13652.1.

*of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS; *Brown v. City of Oakland*, N.D. Cal. Case No. 21-cv-02881 RS. Any future modifications to this policy must ensure compliance with those settlements and court orders.

**Description and Purpose**

<b>Riot Helmets</b>	
<b>Description</b>	Helmet-Non Ballistic (906 Series TacElite EPR Polycarbonate Alloy Riot Helmet)
<b>Manufacturer's Product Description</b>	<p>The model 906 features an optically clear, UV resistant, polycarbonate face shield with an integrally molded liquid seal. The model 906 is trusted by thousands of law enforcement agencies around the world to protect their valuable men and women in any riot situation.</p> <ul style="list-style-type: none"> <li>• TacElite EPR polycarbonate alloy helmet shell.</li> <li>• Expanded polystyrene liner with padded, sweat-wicking inner liner</li> <li>• Permanently mounted neck protector with Kydex penetration shield and shock absorbent foam pad</li> <li>• Detachable .150" (3.8mm) thick face shield with liquid seal prevents liquids from seeping into officer's eyes</li> <li>• Molded lip on top edge of face shield prevents shield from closing over integral visor and striking the face</li> <li>• Double D-ring fastener provides maximum strength and slip resistance. Optional NIJ compliant quick release buckle available.</li> <li>• Snap-on nape pad with Kydex penetration shield, shock-absorbent foam pads and chemical-resistant black Cordura cover</li> <li>• Plastic chin cup for added comfort when harness is tightened. Optional chin pad available.</li> <li>• Face guard: Steel wire with black nylon coating and welded joints for maximum strength and safety. Wire guard is form fitted to match radius of face shield and is attached by four heavy-duty nylon clips. Viewing area: 2 3/4" x 8 1/2" (7.0cm x 21.6cm) (Model 906C only)</li> <li>• Weight Model 906: 3.2 lbs. (1.5 Kg)</li> <li>• Weight Model 906FS6: 3.2 lbs. (1.5 Kg)</li> <li>• Weight Model 906C: 4 lbs. (1.8 Kg)</li> <li>• Meets or exceeds NIJ Standard for Riot Helmets, NIJ 0104.02* (Model 906 only)</li> </ul>
<b>Capabilities / How the item works</b>	<p>Helmets protect officers by cushioning blows that prevent head injuries by providing a layer of soft cushion inside a strong, polycarbonate shell. Worn properly, the helmet is capable of providing some protection to the user from thrown or launched objects such as rocks, bottles, or bricks. The helmet is not ballistic and does not protect from gunfire.</p>
<b>Expected lifespan</b>	~ 30 years
<b>Quantity</b>	703

**Purpose and intended uses and/or effects**

Crowd Control Helmets should only be used during a protest or demonstration to protect members from thrown objects.

**Fiscal Costs***Initial Costs*

- The Oakland Police Department (OPD) currently owns/possesses/uses the equipment.
- OPD proposes to obtain the equipment. Initial costs are anticipated to be:

*Estimated or anticipated costs for each proposed use*

Helmets: Each unit (helmet) costs ~\$400.00

Total estimated initial cost: ~\$281,200

*Estimated or anticipated costs of potential adverse impacts*

There is no way of anticipating every possible adverse impact. Additionally, even some known possible adverse effects may be so remote that they were not assessed for the purposes of this report. 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.

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

*Estimated or anticipated ongoing costs*

Costs for the helmets and training is unknown for a calendar year.

Training may either require the person attending training to be on overtime, or for overtime to backfill that person's position while they are at training. The Department trains every member in the academy (16 hours) and in CPT (2 hours). Unknown yearly costs.

**Impacts***Reasonably anticipated impacts*

Deliberate misuse.

Though unlikely, it is possible that Riot Helmets 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.

Unintentional misuse of Riot Helmets 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 will attempt to prevent unintentional misuse through thorough audits, training and clear policy description TB III-G.

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 Riot Helmets 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.

**Mitigations**

Riot helmets can only be worn in public view at the direction of a commander or supervisor. There must be an articulable reason to wear the helmet. The department will continue to conduct BWC audits, supervisors showing up to service calls and review UOFs to discover if any officer is mis using the riot helmets.

*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.

### **Alternatives**

A summary of all alternative method or methods the Police Department considered to accomplish the purposes for which the controlled equipment is proposed to be used, the annual costs of alternative method or methods, and the potential impacts of alternative method or methods on the welfare, safety, civil rights, and civil liberties of the public.

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. The department recognizes that there could be a negative effect from the crowd when officers are wearing their riot helmets. In certain circumstances it might be appropriate to have the officers hold their helmets instead of wearing them. This is an alternative use for the helmets to help de-escalate a potential hostile crowd.

However, even during de-escalation strategies and actions, controlled equipment may be used or ready to further a safe outcome to the event. Generally, a built-in alternative to the actual use of riot helmets – especially as a protective option – its use as a tool to provide safety 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.

### **Location**

Riot Helmets 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**

As noted, many other agencies issue riot helmets to every sworn officer as standard issue. The helmet is an integral part of law enforcement, mainly because citizens want to exercise their first amendment rights and this allows officers to protect themselves against blunt weapons (bottles, rocks etc..). These items are not used as weapons. The Department has put in place several controls to ensure that riot helmets are only worn on direction of a superior officer for specific situations where they are likely to be needed, not for all crowd control situations.



## **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

<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

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

	.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

	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

	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

	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

<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.



<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

<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.

### ***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.

### ***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.

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

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](#)***

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

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



- 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.

## **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

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.

# TRAINING



# BULLETIN

Effective Date:  
XX MMM 22

Index Number: V-F.2  
Alpha Index: Chemical Agents  
Use of Chemical Agents

*“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”*

## CHEMICAL AGENTS

### INTRODUCTION

#### A. Purpose

1. 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.

#### B. Overall Description

1. Chemical agents used by the Oakland Police Department are divided into three classes: duty aerosol to distract and confuse threats (discussed in Part II), chemical agents to disperse crowds (discussed in Part III), and chemical agents to detect and dislodge barricaded subjects (discussed in Part IV).
2. Some chemical agents are used for more than one purpose and fall into more than one category.
3. When used correctly, chemical agents are highly effective, but their effects dissipate quickly when a subject leaves a contaminated area.
4. Members shall report all incidents when a chemical agent is applied to a subject in accordance with Department General Order (DGO) K-4, REPORTING AND INVESTIGATING THE USE OF FORCE.

#### C. Contamination Levels

1. Level 1: Direct physical contact with a chemical agent.

A Level 1 contamination is the result of a chemical agent being applied directly to a person.

2. Level 2: Indirect or secondary contact with a chemical agent.

Level 2 contamination may occur when person attempts to control an individual who has Level 1 contamination and the chemical agent is transferred through physical contact.

3. Level 3: Area contamination.

Level 3 contamination refers to the location or the site where a chemical agent has been dispersed. An individual traveling through a contaminated area may be affected by the chemical agent present.

#### D. Delivery & Dissemination Methods

Chemical agents are deployed in five ways:

##### 1. Aerosol Delivery

A chemical agent laden liquid is forced through the nozzle of an aerosol container by a compressed gas.

##### 2. Blast Dispersion

A fine chemical powder is expelled into the atmosphere in one of three ways: a detonator device, a compressed inert gas device, or a primer/black-powder cartridge. Because they offer very little fire hazard, these devices are ideal for indoor use.

##### Fogging

A chemical is discharged into the atmosphere by introducing a chemical laden formula into an area of hot exhaust. This process produces a high volume of smoke heavily permeated with the chemical. Fogging devices are used outdoors when large areas require contamination.

##### 4. Launching

A chemical agent is delivered to a specific location by means of a launching device. The Department uses the Defense Technologies 37mm, double action, single shot, smooth-bore launcher. This launcher is capable of delivering chemical agent projectiles at distances up to 150 yards, providing officers with maximum standoff capability.

##### 5. Pyrotechnic Release

A chemical is released by mixing the chemical with smoke produced by a burning fuel. These devices are designed for outdoor use and should not be thrown into or onto a building without proper flame containment.

#### E. Effects of Chemical Agents Used by the Oakland Police Department

##### 1. Oleoresin Capsicum (OC)

- a. When OC is properly applied, the contaminated person involuntarily closes his/her eyes and is not able to reopen their eyes until the effects dissipate. Contaminated persons experience a burning sensation, redness, and a slight swelling at affected areas; a burning sensation and slight swelling to mucous membranes; excessive nasal mucous secretion; and shortness of breath.
- b. Allergic reactions to OC are rare. Although most allergic reactions are not life threatening, medical treatment must be provided. Signs of an allergic reaction may include itching, hives, difficulty in swallowing, and facial swelling (particularly around the eyes, lips, or nose).

- c. Exposure to OC may cause some individuals to become disoriented and confused. Due to the physical discomfort, some individuals may experience anxiety and panic.
- d. Most individuals react to OC within 1-5 seconds, providing the eyes and facial area have been sufficiently contaminated. OC is most effective on individuals who are lucid and have a normal pain threshold.
- e. An individual's mindset may influence OC's effectiveness. Goal oriented and mentally focused subjects may still accomplish their goals even though they cannot see and are experiencing significant pain and discomfort.
- f. Many OC failures are a result of operator error.

Failure may also occur when OC is applied to individuals under the extreme influence of drugs/alcohol and/or with mental disturbances. Officers should never rely solely on a chemical agent, and alternate plans should be in place if the chemical agent does not produce the desired effect.

- h. Animals used in police work, such as dogs and horses, are affected by exposure to OC.
- i. Any powder or liquid OC chemical device which is delivered by a hand-held aerosol, or is hand-thrown or launched is color-coded with an ORANGE label or with ORANGE printing.

## 2. Orthochlorobenzalmalononitrile (CS)

- a. When CS is properly applied, the contaminated individual feels a prickly, burning sensation on the skin, especially around the moist areas of the body such as the eyes, mouth, nose, throat, and armpits. CS causes excessive tearing and mucous discharge from the nasal passages. The contaminated person involuntarily closes and is not able to keep open his/her eyes. Breathing CS may create a feeling of tightness in the chest, shortness of breath, coughing, and/or sneezing. Extended and extreme exposures may result in nausea and vomiting.
- b. Exposure to CS may cause some individuals to become disoriented and confused. Due to the physical discomfort, some individuals may experience anxiety and panic.
- c. Most individuals react to CS within 3-7 seconds, depending on contamination concentration and the subject's mental state and physical condition. CS is most effective on individuals who are lucid and have a normal pain threshold.
- d. Failure may occur when CS is applied to individuals under the extreme influence of drugs/alcohol and/or with mental disturbances. No deaths have been attributed to the use of CS.
- e. Animals used in police work will suffer very little, if at all, from the effects of CS.
- f. Any CS chemical device is color-coded BLUE.

3. Hexachloroethane (HC)(White Smoke)
  - a. Smoke munitions produce dense clouds of white-gray smoke.
  - b. Smoke is not a chemical agent; however, it may cause coughing and slight nasal and throat irritation. Smoke is used to mask the movement of personnel, plot wind direction and speed for chemical agent deployment, and to distract attention from other activities.
  - c. Smoke can only be deployed in the pyrotechnic form and is primarily designed for outdoor use.

## II. DESCRIPTION AND OPERATION OF DUTY AEROSOL

### A. Description of Duty Aerosol

1. Officers carry Oleoresin Capsicum (OC) aerosol spray on their duty belts for immediate deployment as a force option.
2. Officers consistently carry OC in the same location on their duty belt, facilitating a quick draw. What may work for one officer may not work for others.
3. The canister should lend itself to retention techniques if a subject attempts to remove the canister from an officer's belt. Officers ensure the positioning of an OC canister behind a firearm does not interfere with unsnapping and drawing the firearm from its holster.
4. Officers carry OC canisters in a manner that eliminates the possibility of accidental discharge.
5. The Oakland Police Department authorizes two sizes of aerosol canisters for duty carry; the size an officer carries is his or her discretion.
6. The First Defense/Federal Laboratories MK6 is a hand held aerosol device that contains .68 fluid ounces of liquid OC. The OC is dissolved in a non-flammable, water-based liquid carrier that is propelled by compressed nitrogen. The small size of the canister and the built-in belt clip make this canister ideal for plainclothes carry. The MK6 delivers a ballistic stream to a distance of 10 feet. The hydraulic needle effect range (explained below) is 3 feet. Under exigent circumstances, this canister may be deployed at distances closer than 3 feet.
7. The First Defense/Federal Laboratories MK4 is a hand held aerosol device that contains 3.0 fluid ounces of liquid OC. As with the MK6, the OC is dissolved in a non-flammable, water-based liquid carrier that is propelled by compressed nitrogen. The MK4 delivers a ballistic stream to a distance of 10 feet. The hydraulic needle effect range is 3 feet. Under exigent circumstances, this canister may be deployed at distances closer than 3 feet.
8. OC may have little or no effect on individuals who have a high pain threshold, are under the influence of alcohol or narcotics, or are mentally disturbed.
9. The hydraulic needle effect is the consequence of solid particulates traveling at high velocity and damaging soft tissue. Under normal conditions, the minimum safe distance for OC application is 36 inches. Although no documented cases exist in which the hydraulic effect has caused injury, officers are reminded that the possibility of injury, although rare, exists.

### B. Operation of Duty Aerosol

1. The primary target areas for OC are the eyes, eyebrows, and forehead. The secondary target areas are the nose and mouth. It is recommended that officers spray the target areas using a one to three second burst to ensure sufficient agent direct contamination. Officers need to be prepared to use multiple bursts as subjects often move as they are being sprayed and the subject may not react to the effects of the OC immediately. Like any other force option, only the proper application of OC ensures its effectiveness. The majority of OC application failures are due to applying OC to non-target areas.



2. Wind, rain, fans, hats, glasses, and other forms of shielding may affect the successful delivery of the ballistic stream.
3. Officers should never rely solely on one course of action. A preplanned alternate course should be readily available should the delivery of OC fail.
4. Officers shall attempt to avoid the use of OC on the following persons unless there is an imminent threat of injury to the officer, third party, or the person:
  - a. The elderly
  - b. A person known or reasonably known to be mentally disturbed
  - c. A person known or reasonably believed to be suffering from obvious respiratory disabilities
  - d. A person known or reasonably known to be pregnant
  - e. Young children
  - f. A handcuffed person

C. Authorized Uses of Duty Aerosol

1. Use of duty OC aerosol is governed by the Department's Use of Force policy, DGO K-03. Duty OC aerosol is intended to overcome **active** and **assaultive resistance**<sup>1</sup>, and shall only be used when objectively reasonable, necessary, and proportional to the level of resistance posed, threat perceived, or urgency of the situation to achieve a lawful purpose or objective<sup>2</sup>.

D. Prohibited Uses of Duty Aerosol

1. OC spray shall not be used to wake up or arouse unconscious or sleeping individuals who otherwise pose no threat.
2. OC spray shall not be used on passive resisters who go limp or offer no physical resistance.<sup>3</sup>
3. Duty Aerosol OC shall not be used for crowd dispersal. During crowd control situations, Duty Aerosol OC may only be used against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.

E. Duty Aerosol Training

1. All sworn officers shall receive training in the OC spray during the basic academy or academy transition course after graduation, including opportunity for exposure to OC spray in a controlled training environment.

<sup>1</sup> DGO K-03, Section F-3

<sup>2</sup> DGO K-03, Section D-1

<sup>3</sup> DGO K-03, Section G-3

2. Continued professional training (CPT) defensive tactics training includes refresher training on transitioning to and between less-lethal force options, including OC spray, and the Training Section may add dedicated OC spray training during the CPT cycle as appropriate.

### III. TRAINING ON CHEMICAL AGENTS FOR CROWD CONTROL AND TACTICAL OPERATIONS

#### A. Initial Instruction

1. The Department's Basic Tactical Team school ("SWAT School") shall include training on chemical agent deployment, exposure, safe delivery in both crowd control and tactical operations, and legal rules and considerations for chemical munitions.
2. Members of the Department's Patrol Rifle Program (PRO, reference DGO K-06) may be trained during a quarterly PRO training day.
3. Staff conducting training shall keep a running count of how many SIM are expended during training and report it quarterly to the Department's Military Equipment Coordinator or designee.
4. All training/qualification records and lesson plans shall be maintained by the Training Section. The records shall not be purged once training and qualification have been updated or renewed. The records shall represent the entire history of the member's training, qualifications and the curriculum utilized for each training session.

#### B. Ongoing Instruction

1. Members of the Department's Tactical Team shall attend training at least once per year on chemical agent deployment, exposure, safe delivery in both crowd control and tactical operations, and legal rules and considerations for chemical munitions.
2. Members of the Department's PRO program who are trained on chemical agent deployment shall attend training at least once per year on chemical agent deployment, exposure, safe delivery in both crowd control and tactical operations, and legal rules and considerations for chemical munitions.

#### C. Training Staff

1. Members providing training on chemical agent deployment shall be POST certified instructors.

### IV. CHEMICAL AGENTS FOR CROWD CONTROL

#### A. Introduction

1. Chemical agents may be used during certain limited crowd control situations, but are severely limited by California law (Penal Code 13652) and OPD Policy (Training Bulletin III-G). All chemical munitions used during any crowd control situations shall be deployed solely by Tango Teams staffed by trained personnel.
2. This Training Bulletin discusses **how to deliver chemical munitions**. For specific crowd control guidelines and tactics, refer to Training Bulletin III-G, Crowd Control and Crowd Management, which incorporates prevailing law and policy restrictions.

3. Training Bulletin III-G sets forward the following regarding chemical agent use in crowd control:
  - a. Authorized uses
  - b. Prohibited uses

B. Delivery of Pyrotechnic Chemical Munitions

Pyrotechnic chemical munitions are hand thrown grenades or munitions launched from a launching device.

1. Hand Deployed Grenades

a. Description

- 1) Hand-thrown munitions are primarily pyrotechnic grenades. There are many types of grenades, but all have the same basic operating characteristics. A standard grenade consists of a body, a fuse, burning and chemical agents, and a safety lever.
- 2) The body of a grenade is nothing more than a container holding the fuse and burning and chemical agents together.
- 3) Pyrotechnic grenades use a M201A1 mechanical fuse. This fuse has a burn time of approximately 2.0 seconds. After the safety lever is released, the delay element burns for approximately 2 seconds before the main burning agent ignites.
- 4) The burning agent is the fuel mixture that burns along with the chemical agent. The burning agent produces a smoke cloud that carries the chemical agent particles into the atmosphere.
- 5) The safety lever is the metal lever attached to the fuse. When attached to the fuse, the safety lever prevents the spring-loaded striker mechanism in the fuse from striking and igniting the delay element.
- 6) The deployment range of a grenade is dependent upon the throwing ability of the deploying officer.

b. Instruction for Deploying a Grenade by Hand

- 1) To deploy a grenade by hand, follow these steps:
- 2) Grip the grenade with the safety lever positioned in the web of the throwing hand. The pin should face the non-throwing side of the body.
- 3) Left-handed throwers may have to invert the grenade and grip it so that the fuse is pointed toward the ground. This grip facilitates the pin facing the non-throwing side of the body.
- 4) Prepare the pin by partially straightening the tail end of the safety pin.

- 5) Use the index finger of the non-throwing hand to hook the safety pin through the pin ring. Twist and pull the pin out of the fuse. Retain the pin until after the grenade has been deployed.
- 6) Visually check the target area for subjects that might be injured by the deployment or unable to escape the effects of the chemical agents, (e.g., elderly, physically disabled, or young children).
- 7) If you decide not to throw the grenade, you may re-insert the safety into the fuse (Expect some difficulty in re-inserting the safety pin.).
- 8) Throw the grenade toward the target area.
- 9) An officer may throw a grenade in three ways. The best way of throwing a grenade depends upon the preference of the individual officer.
- 10) Officers execute a straight–arm throw by extending their arm to the rear and throwing the grenade in a sweeping motion over their head. The free arm maintains balance and creates momentum for the throwing arm.
- 11) The overhand throw is similar to throwing a baseball. Officers cock their throwing arm behind their head while pointing their free hand toward the target area.
- 12) Officers execute an underhand lob by “lobbing” the grenade in the same fashion as lobbing a horseshoe or a slow–pitch softball. Officers may choose this throw when the target area is only a short distance away.

c. Types of Grenades Used by the Department

- 1) #2/Spede-Heat
  - a) The #2/Spede-Heat is a metal–bodied grenade shaped like a soda can. The grenade is 2.62 inches in diameter and 6.12 inches long. It contains 81.2 grams of chemical agent. The Department maintains an inventory of this grenade in both CS and HC (Smoke).
  - b) The #2/Spede-Heat is a long burning, high volume, continuous discharge grenade. It has a 30 – 40 second burn time. The chemical agent is discharged through 4 gas ports located at the top of the grenade, 3 gas ports on the sides, and 1 gas port on the bottom.
  - c) The long burn time may allow for “throwback” by individuals using burn protection on their hands. This device should not be deployed onto rooftops, in crawl spaces, or indoors due to its fire producing capability.
- 2) The #4/Triple Chaser

- a) The #4/Triple Chaser is a metal-bodied grenade shaped like a soda can. The grenade is 2.70 inches in diameter and 6.5 inches long. It contains 92 grams of chemical agent. The Department maintains an inventory of this grenade in both CS and HC (Smoke).
  - b) The #4/Triple Chaser is a fast burning, medium volume grenade that separates into three sub-munitions on deployment. When the grenade is deployed, a small charge between the sections causes the sub-munitions to separate, creating approximately 20 feet between the sub-munitions. The #4/Triple Chaser has a 20 – 30 second burn time.
  - c) This device should be thrown under-hand to keep the grenade moving towards the target area. This method assists the sub-munitions to deploy on a line from left to right.
  - d) The separating sub-munitions and quick burn time minimize “throw-back” potential. This device should not be deployed onto rooftops, in crawl spaces, or indoors due to its fire producing capability.
- 3) #15 Han-Ball
- a) The #15 Han-Ball grenade is a rubber-bodied grenade shaped like a baseball. The grenade is 3.10 inches in diameter and 4.8 inches long. It contains a total of 45.4 grams of chemical agent. The Department maintains an inventory of this grenade in both CS and HC (Smoke).
  - b) The #15 Han-Ball is a fast burning, high volume continuous discharge grenade. It has a 15-20 second burn time. The chemical agent is discharged through 3 ports located on the equator of the grenade body.
  - c) The location of the ports minimizes the grenade’s “throw-back” potential. This device should not be deployed onto rooftops, in crawl spaces, or indoors due to its fire producing capability.
- 4) #98 Pocket
- a) The #98 Pocket grenade is a metal-bodied grenade that is cylindrical shaped. The grenade is 1.4 inches in diameter and 4.75 inches long. It contains a total of 25.2 grams of chemical agent. The Department maintains an inventory of this grenade in both CS and HC (Smoke).
  - b) The #98 Pocket grenade is a small, lightweight, easily carried, quick burning, reduced volume, continuous discharge grenade. It has a 20-25 second burn time.

- c) The #98 Pocket grenade is not specifically intended as a crowd control device. It was designed with the tactical team in mind for distraction, concealment, rescue, or signaling. This device should not be deployed onto rooftops, in crawl spaces, or indoors due to its fire producing capability.

#### #15 Rubber CS Blast Dispersion

- a) The #15 Rubber CS Blast Dispersion grenade is a rubber-bodied grenade shaped like a baseball. The grenade is 3.10 inches in diameter and 4.8 inches long and contains 8.0 grams of flash powder and 2.0 grams of powdered CS chemical agent.
- b) When the #15 Rubber CS Blast Dispersion grenade is deployed, the grenade has an initial 1.5 second delay that initiates fuse assembly separation, followed by another .5 second delay before the grenade discharges.
- c) Unlike other grenades, the #15 Rubber CS Blast Dispersion grenade is a non-pyrotechnic grenade. Instead, this grenade produces 3 stimuli for psychological and physiological effect: light, sound, and chemical agent in the form of powdered CS.
- d) Upon discharge, a bright white light is emitted along with a loud report sufficient to disperse the powdered chemical agent in a 50-foot radius.
- e) This grenade may be deployed for ground or aerial bursts at the discretion of the officer deploying the munition. The #15 Rubber CS Blast Dispersion grenade may also be used in tactical situations.

## 2. Launched Pyrotechnic Munitions

### a. Description and Use

- 1) Launched chemical munitions enhance officer safety in crowd control situations by providing officers with standoff capability while delivering chemical agents from a distance.
- 2) The Department Tactical Team maintains three configurations of the Defense Technologies Model L1, 37mm Launcher: the full stock configuration, the tactical model, and the pistol model.
- 3) The L1 Launcher is a single shot, smooth bore launcher. It has a double action trigger and a top latch breech lock that, when lifted, may be opened for loading and un-loading.
- 4) The launcher has a bladed front sight and a rear leaf sight.
- 5) The sights are configured so that, when the rear sight is folded down, the front sight may be used for precision fire to a range of 50 yards.

When the rear leaf sight is raised, the lower aperture of the rear sight is used for precision fire to a range of 50-75 yards. The upper aperture on the rear leaf sight is used for precision fire onto targets that are at a range of 75-100 yards.

- 6) The launchers are cleaned in the same fashion and using the same equipment and solvents as are used for cleaning a firearm. Only trained personnel who maintain qualification standards may use the launcher.

b. Types of Launched Munitions Used by the Department

1) Spede-Heat 37 or 40

- a) The Spede-Heat 37 or 40 is a 37mm or 40mm pyrotechnic munition designed to deliver one chemical or smoke canister down range to a target at a distance of up to 150 yards. The Department maintains this munition in the CS configuration.
- b) The canister is 1.5 inches in diameter and 4.75 inches long (37mm) or 1.6" diameter and 4.8" long (40mm). It contains 25.2 grams of CS and has a burn time of 20-30 seconds.
- c) The canister may be fired in the air at an angle of 25-30 degrees to achieve maximum standoff distance. The canister may also be skip-fired into the target area from lesser distances.
- d) The Spede-Heat 37 or 40 is designed for outdoor use and is not intended for barricade penetration. A spotter should ensure launched canisters do not ignite fires. Because serious injury may result, do not fire this canister directly at persons.

2) Skat Shell 37 or 40

- a) The Skat Shell 37 or 40 is a 37mm or 40mm munition designed to deliver multiple pyrotechnic chemical or smoke canisters down range to a target at a distance of up to 75 yards. The Department maintains this munition in the CS configuration.
- b) The cartridge is 1.5 inches in diameter and 5.5 inches long (37mm) or 1.6" diameter and 4.8" long (40mm). The cartridge contains five separate sub-munitions with 25.2 grams of chemical agent. The burn time for the sub-munitions is 10-25 seconds.
- c) The Skat Shell 37 or 40 allow for a broad deployment of chemical agents by one grenadier. The separate sub-munitions function individually once the cartridge is discharged. The small scattering effect and the rapid burning of the sub-munition canisters provide a wide area of coverage and minimize the "throwback" potential.

- d) The cartridge may be fired at an angle of 25-30 degrees to achieve maximum standoff distance. The cartridge may also be skip-fired into the target area from lesser distances.

The Skat Shell 37 or 40 are designed for outdoor use and is not intended for barricade penetration. A spotter should ensure the sub-munitions do not ignite fires. Because serious injury may result, do not fire this canister directly at persons.

c. 37mm or 40mm Muzzle Blast

- 1) The 37mm or 40mm Muzzle Blast is designed to deliver chemical agent laden powder from a 37mm or 40mm launcher to a distance of 30 feet. The Muzzle Blast is not a pyrotechnic device.
- 2) The cartridge is 1.5 inches in diameter and 5.5 inches long (37mm) or 1.6” in diameter and 4.8” long (40mm). The CS cartridge contains 12.3 grams of CS agent. The OC cartridge contains 2.0 grams of OC agent. The Department maintains this munition in both CS and OC configurations.
- 3) The 37mm or 40mm Muzzle Blast is used as a crowd control tool for the immediate and close deployment of chemical agent. The 37mm or 40mm Muzzle Blast is an excellent round for deploying chemical laden powder directly onto subjects at ranges up to 30 feet.
- 4) The 37mm or 40mm Muzzle Blast has also proved successful during tactical operations. It may be used for room clearing, space denial, and contaminating crawl and attic spaces to deny a subject access or to dislodge barricaded subjects.
- 5) It is recommended that the grenadier and all personnel in the immediate vicinity of deployment wear protective masks.

**V. CHEMICAL AGENTS FOR TACTICAL OPERATIONS**

A. Introduction

- 1. Chemical agents play a significant role in tactical operations.
- 2. Subjects barricaded inside a structure present a clear and identifiable hazard to officers.

- 3. [REDACTED]
- [REDACTED]
- [REDACTED]





B. Authorized Uses

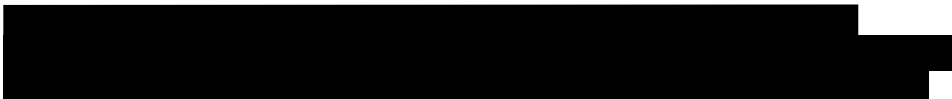
1. Chemical agents for tactical operations shall be authorized by the incident commander, at the rank of Lieutenant or above, unless there are exigent circumstances where the immediate use of the chemical agent would overcome life-threatening resistance or is necessary to stop a situation in which the officer reasonably believes that death or great bodily injury would occur to the officer or others unless the chemical agent is used immediately.
2. Incident commanders on tactical operations may authorize the deployment of chemical munitions for incidents involving actual or threatened violence, or when reasonable suspicion, based on articulable facts, exists that violence will occur when attempting to take a person into custody using the tactical team or when attempting to rescue others from a place where an engaged person is located.
3. Incident commanders on tactical operations may authorize the deployment of chemical munitions for incidents involving armed and unresponsive persons in vehicles (reference TB III-P.01).
4. Incident commanders on specific criminal operations where a large group of persons engaged in mass lawbreaking and violence (e.g., sideshow), where an operations plan allows for chemical agents, may authorize chemical agents as an intermediate force option for incidents involving actual or threatened violence, or when reasonable suspicion, based on articulable facts, exists that violence will occur using firearms or explosives.
5. Chemical agents shall only be deployed by tactical team members who are trained in the specific munition or munitions to be deployed.

C. Prohibited Uses

1. Chemical munitions shall not be used without a deployment of the tactical team or tango team, unless there are exigent circumstances where the immediate use of the chemical agent would overcome life-threatening resistance or is necessary to stop a situation in which the officer reasonably believes that death or great bodily injury would occur to the officer or others unless the chemical agent is used immediately. In these cases, command authorization shall be sought from a command officer at the rank of Lieutenant or above unless this is not feasible and doing so would jeopardize safety for officers, the engaged person, or the community.
2. Chemical munitions shall not be used in situations where persons who might be injured by the deployment or unable to escape the effects of the chemical agents are present (e.g., elderly, physically disabled, or young children) unless there are articulable facts and circumstances that would reasonably demonstrate a need to use the chemical agent to

resolve the situation which outweigh the danger of the chemical agent use that might impact the member(s) of these vulnerable population(s).

D. Preparation for Delivery

1. Before the delivery of chemical agents in tactical operations, the complete evaluation of an area is required. Information gathering is one of the keys to preparation. Several key factors may prove advantageous.
2. Floor Plan – It is advantageous to know the structure’s floor plan and the location of the subject before deployment of munitions.
3. Agent Selection – Based on the tactical situation and objectives, select the type and form of agent to use.
4. Method of Deployment – Based on the tactical situation and Department policy, decide the method of deployment. This method may be simultaneous deployment affecting the entire structure or a methodical deployment targeting particular areas.
5. Precautions – Because of their potential danger and contamination properties, indiscriminate use of chemicals must be avoided. Medical and fire fighting personnel and equipment should be readily accessible.
  - a. Additional precautions must include the review of intelligence to determine whether other unintended persons may be affected by the use of chemical agents. This includes situations such as:
    - 1) Other persons who share the home (e.g., multi-generational homes)
    - 2) Other persons who share the structure (e.g., duplexes, triplexes, or apartment buildings)
    - 3) Other persons in the area (e.g., close quarter developments or nearby parks, schools, or gathering places and whether these areas should be evacuated prior to the use of chemical agents)
6. Perimeter Control – Ensure the inner and outer perimeter are secure. Ensure that the area is clear of bystanders and traffic.
7. Communications – Alert all officers on the scene that chemical munitions will be deployed. This alert informs officers chemical munitions, not weapons, are fired and allows officers within the immediate area to don protective masks.
8. Personnel – Make specific assignments for which officer(s) is to deploy chemical munitions and which officer(s) is to provide over-watch for the deployment.
9. Delivery – Establish the order of locations within the structure to be contaminated. Also establish the quantity of chemical munitions to be delivered into each target area and the frequency at which chemical agents should be re-deployed into the structure.
10. 

11.



## E. Types of Chemical Munitions for Tactical Operations

## 1. Launched Munitions: 37mm or 40mm Barricade Penetrating Projectile (Ferret)

- a. The Department maintains the 37mm or 40mm Barricade Penetrating Projectile (Ferret) as a staple tool for resolving barricaded subject incidents.

Although the chemical agent payload is low, the benefit of the Ferret is its ability to penetrate barriers and disperse agent beyond the barrier. The Ferret round penetrates windows, particleboard, doors, and interior walls. Upon impact, the nose cone breaks apart and instantaneously delivers the agent payload inside the structure.

- c. The Ferret is a launched chemical munition designed for penetrating physical barriers and is not suitable as a specialty impact munition (SIM). These munitions shall not be direct fired at a subject unless lethal force is authorized.
- d. The Ferret uses the 37mm or 40mm Launcher as the launching device.
- e. The Ferret is a fin stabilized, frangible projectile filled with 6.9g of liquid CS. The plastic projectile itself is 1.5 inches in diameter and 4.8 inches long (37mm) or 1.6" diameter and 4.1" long (40mm).
- f. Spin stabilization affords maximum standoff distance. The Ferret has a maximum range of about 200 yards and is highly accurate at ranges of 50 yards or closer.
- g. The Ferret round is non-burning and suitable for indoor use.
- h. Additional considerations before deployment of the Ferret:
- 1) Trajectory considerations – The Ferret must be fired so that the trajectory is low to high. This trajectory reduces the possibility of the Ferret striking any subject standing on the other side of a window or door.
  - 2) Dispersal considerations – For the agent to disperse, the Ferret's impact must be hard enough to fracture the projectile. Double paned windows, heavy window coverings, and hard wood doors will interfere with the dissemination of the agent from this round.
  - 3) Deployment considerations – As a rule of thumb, initially deploy two liquid projectiles per room. If the first deployment does not dislodge the suspect, wait 5 – 15 minutes and repeat the procedure. Remember that each time you make an insertion with the Ferret round, you are ventilating the structure and allowing for chemical agent to be released.
  - 4) Performance – After the munitions have been deployed, exercise patience. Allow the agent to contaminate the area and affect the subject. Although the subject may not evacuate the structure, he/she may be

reacting in a way that displays his/her location within the structure. Further containment may then be possible at that location.

- 5) *Force Options*– Liquid Ferret projectiles do not produce the intense effects that other chemical munitions produce due to the small payload the Ferret carries. Beginning with Ferret projectiles affords officers ample time to evaluate whether more Ferret projectiles or another form of chemical agent delivery system is required.

Penetration factors for the 37mm Barricade Penetrating Projectile

**Direct 90 degree impact**

Barricade material	Range
5/8" CDX Plywood	50 yards
3/4" CDX Plywood	35 yards
1/4" OSB	50 yards
1/2" Drywall	50 yards
5/8" Drywall	50 yards
Hollow Core Door	50 yards

**Indirect 45 degree impact**

Barricade material	Range
5/8" CDX Plywood	35 yards
3/4" CDX Plywood	15 yards
1/4" OSB	50 yards
1/2" Drywall	50 yards
5/8" Drywall	50 yards
Hollow Core Door	50 yards

2. Hand Thrown Chemical Munitions for Tactical Operations

- a. A majority of grenades designed for indoor use operate by dispersing a powdered chemical agent into the atmosphere through a non-fire blast or compressed air expulsion.
- b. Unable to contaminate a large structure, these non-burning grenades are ideal for contaminating small enclosed areas such as crawl spaces, attics, hallways, and closets.

3. T-16 Flameless Expulsion Grenade

- a. The T-16 Flameless Expulsion Grenade is 1.65 inches in diameter and 7.5 inches long and has a payload of 4.5 grams of CS powder or .5 grams of OC powder.
- b. The grenade uses a M201A1 fuse to create a 1.5 second delay. Upon activation of the onboard CO2 cartridge, the chemical agent powder is expelled within seconds through two ports in the body of the grenade.
- c. The extremely light powder remains airborne for extended periods of time depending on draft conditions.

4. The Multi-Purpose Grenade (MPG)
  - a. The MPG is designed for indoor and outdoor use and alleviates the potential dangers associated with fire or fragmentation grenades. The grenade can be hand thrown or launched.
  - b. The MPG is 3.3 inches in diameter and 6.4 inches long and has a payload of 54.3 grams of powdered CS. The fuse has a variable delay mechanism of either two or five seconds, depending on the choice of delivery.
  - c. When hand throwing this device, the deploying officer must exercise caution and ensure the discharge port is pointed at the intended target.
5. #514 Instantaneous Blast Grenade
  - a. The payload of the #514 Instantaneous Blast Grenade is a powdered chemical agent expelled upon initiation of a small internal detonator that has sufficient force to split the canister at the six machined grooves on the outside of the grenade body.
  - b. The grenade is 2.62 inches in diameter and 6.12 inches long. The grenade uses a M201A1 standard fuse with a 1.5 second delay. The payload is 44.0 grams of CS or 9.2 grams of OC.
  - c. This grenade is most effective when used in confined areas and close to the target area.
6. #517 Tri-Chamber Flameless Grenade
  - a. This pyrotechnic grenade is specifically designed for indoor use.
  - b. The grenade's internal combustion allows the chemical-laden smoke to release through three ports on the outer canister side while the grenade's two internal canisters safely contain the fire producing properties.
  - c. The grenade is 2.62 inches in diameter and 6.62 inches long and contains 20 grams of CS agent; it has a burn time of 30 – 40 seconds. The grenade uses a M201A1 standard fuse with 1.5-second delay. The fuse is shrouded to protect surrounding materials from fire.
  - d. The Tri-Chamber Flameless grenade delivers a pyrotechnic chemical device indoors to maximize the chemical's effectiveness through heat and vaporization while minimizing the chance of fire. As with all pyrotechnic carriers, contamination is greater than contamination produced by powders or liquids.
  - e. The smoke and chemical content is minimal enough that oxygen displacement concerns and lethal concentration levels are rarely reached.
  - f. This grenade is an option when chemical laden powders or liquids are ineffective or inappropriate for the situation.

#### **SAFETY PRECAUTIONS DURING USE OF CHEMICAL AGENTS**

A. Description and Use of Chemical Protective Mask

1. Description of Chemical Protective Mask

- a. A protective mask offers the user respiratory and eye protection against chemical agents in the atmosphere. Protective masks generally have an external canister and a full-face cover protecting the eyes, nose, and mouth.
- b. The Department uses the following chemical protective masks: the Phalanx #68, the Advantage 1000, and the Millennium #70.
- c. Military issued chemical protective masks such as the M17, M17A1, M17A2, and Model 40 & Model 40A are not National Institute for Occupational Safety and Health (NIOSH) approved for CN/CS/OC. Although the military masks are effective against these agents, Occupational Safety and Health Administration (OSHA) requires law enforcement personnel to use NIOSH approved canisters.
- d. The term gas mask is inaccurate to describe these chemical protective masks, for the chemical agents officers use are not gases but micro-pulverized particulates that are burned and vaporized and then disseminated as blast dispersion or released in an aerosol or fog.
- e. Members should periodically inspect the following areas of their masks to ensure serviceability:
  - 1) *Head harness* – Check for frays, crimps, cuts, rips, or holes.
  - 2) *Fasteners* – Check for chips, cracks, bends, or rust.
  - 3) *Nose cups* – Determine if one is installed. If so, make sure it is installed properly. Check for visible damage.
  - 4) *Face piece* – Check for cracks or irregular shape or form. Look for tears, cracks, or holes in the lens. Make sure the lens is sealed properly to the face piece.
  - 5) *In-take\Out-flow Valves* – Check for dryness, cracks, and proper seating.
  - 6) *Canisters* – Make sure the correct canister for the mask is installed and that it has no cracks, dents, or holes.

2. Donning and Clearing a Chemical Protective Mask

- a. To don a chemical protective mask, follow these steps:
  - 1) Hold your breath.
  - 2) Remove the protective mask from the carrier and grab the temple straps with your middle index fingers. Grab the bottom straps with your thumbs.

- 3) Insert your chin into the protective mask, followed by your nose, then your forehead.
  - 4) Pull the head harness assembly over your head, affixing your face in the mask. Tighten the bottom chinstraps first, then the temple straps, and finally the head straps. Adjust until the fit is snug but comfortable.
  - 5) Make certain that hair (including facial hair) is not compromising the mask's face seal. Do not pull straps out and away from your head but rather pull to the rear of your head. Do not pull the straps too tight!
- b. To clear a chemical protective mask, follow these steps:
- 1) Once the mask is properly donned, inhale deeply. Using the right or left hand, take your palm and cover the in-take valve and the out-flow valve. With your other hand, cover the canister in-take and QUICKLY BLOW OUT. The protective mask will release a small amount of air past the temple area and part slightly from the face, allowing bad air to escape the inside of the mask.
  - 2) Leaving the hand on the canister, QUICKLY INHALE good air into the mask completing the seal. The mask should slightly collapse against the face and remain collapsed until the wearer uncovers the filter.
  - 3) Readjust the face piece to correct for any leakage and repeat steps 2 and 3. Wearing a helmet or other protective headgear may require some adjustments. If the seal has been broken in a contaminated environment, clear and seal the mask 2-3 times to purge the mask as well as possible.

### 3. Performance of Chemical Protective Mask

Filters reduce a user's ability to breathe normally. Using dual filters improves performance. Breathing efficiency becomes continuously reduced as the filter(s) becomes clogged with contaminants. Labored breathing place extra burden on the heart and lungs, thus hastening fatigue.

### 4. Storage of Chemical Protective Mask

The life of a protective mask and canister is dependent on proper storage. When not in use, a properly maintained mask with an attached sealed canister (using protective tape) should be stored in its carry case. Storing a chemical protective mask in a dry area with a moderate constant temperature minimizes deterioration of the rubber and the canister's absorption of moisture. When inserting the mask into its carry case, avoid folding or creasing the mask so it will not retain the memory of the crease or fold. Do not stretch the head harness over the face piece and lens.

### Maintenance of Chemical Protective Mask

Remove the filter and perform a tap-test by tapping the filter against a hard surface in order to free any residual materials. Thoroughly wash the rubber and plastic parts of the mask with a small amount of mild, non-oil based soap dissolved in warm water. Rinse the mask thoroughly. Allow the mask to air dry. Do not use items such as a heat lamp or hair

dryer to dry the mask because the direct, intense heat will cause the rubber to dry out and become brittle. Avoid exposing the mask to direct sunlight.

Do not allow the filter to become wet. Should the filter become exposed to water or any other liquid, replace it. If you have a respiratory illness, the filter may become contaminated. Replace it after use. Standard filters are rated for 4 hours in a heavily contaminated atmosphere. If breathing becomes very labored after 4 hours, replace the filter.

## B. Steps to Decontaminate a Person Exposed to a Chemical Agent

### 1. Steps to Decontaminate a Person Exposed to Level 1 and Level 2 Contamination

Perform the following steps to help decontaminate a person exposed to level 1 and 2 contamination:

- a. Remove the contaminated individual from the contaminated environment.
- b. Calm the subject and remind the subject to breathe normally and relax.
- c. Monitor the subject's condition.
- d. Summon medical attention to the scene for the purpose of flushing the contaminated areas. Any subject exposed to chemical agents must receive medical assistance as soon as practical.
- e. Flush the contaminated area with copious amounts of cool water.

The effects of the chemical agent should dissipate within 30 to 45 minutes

- 1) **Do Not** rub the affected area. **Do Not** use creams, salves, or lotions to ease the pain.
- 2) **Do Not** leave the individual un-attended.

### 2. Steps to Decontaminate a Level 3 Area Contamination

- a. Mark the contaminated area and remove spent chemical agent devices, if present.
- b. Open all doors and window to ventilate the building and remove airborne particulates. Fans may used to increase ventilation.
- c. Clean surfaces using non-ionic, non-oil based detergents such as Tide or Ivory liquid.
- d. If powdered chemical agents were used, use an HEPA –filtered vacuum cleaner to collect the residual powder. A household vacuum may stir the powder rather than trap it.
- e. Close all doors and windows if the chemical agent is still present. Heat the building as hot as practical (at least 4 hours at a minimum of 95 degrees). After



4 hours, open a window at each end of the building and ventilate with fans. Continue heating the building and ventilating until the agent is removed.

- f. Wash / dry clean clothing and fabrics. More than one treatment may be necessary.
- g. Discard all food in plastic containers or wrapped in plastic wrap. Foods stored in sealed metal cans may be used after the containers have been thoroughly washed.

Some or all of the above steps may be repeated a number of times to remove lingering traces of chemical agents in heavily contaminated areas. Some furniture and fabrics may have to be replaced.

#### C. Medical Considerations

Although there have been no deaths attributed to the use of CS, several cases of in-custody death involved the use of OC. Although there is no evidence that OC directly caused these deaths, officers must be aware of their duty to care for subjects on whom they have applied a chemical agent.

Individuals who have ingested cocaine are at risk because cocaine constricts the blood vessels, elevates the heart rate, raises blood pressure, and increases body temperature.

After officers handcuff a subject, the subject should be turned on his/her side or placed in a seated position. Medical assistance should be summoned as soon as practical. The subject should not be left unattended while waiting for medical response.

#### **Post Deployment Considerations**

**First Aid or Medical Treatment** – Members shall provide first aid (e.g., assisting with washing away chemical agents from the facial area) and summon professional medical assistance whenever any person is contaminated by chemical munitions and taken into custody (See DGO K-3, USE OF FORCE, TB III-K, FIRST AID, and DGO I-4, AMBULANCE SERVICE, regarding first aid and emergency medical treatment.).

**Decontamination of Structures** – Incident commanders for any incident where chemical munitions are deployed inside of a structure (e.g., home or business) shall ensure that the property owner or designee is provided information for the Office of City Attorney’s claim process (at minimum they may be directed to the City Attorney’s claim website, <https://www.oaklandcityattorney.org/Resources/fileclaim.html>), and information on how to decontaminate a structure (see “Steps to Decontaminate a Level 3 Area Contamination,” above).

**Evidence** – Personnel shall recover all expended casings and projectiles for documentation purposes and make inventory of all remaining live munitions for accountability. If the situation or exigency does not allow the recovery of the evidence (e.g. crowd control situation), officers shall document in their respective reports the number of munitions deployed and the circumstances disallowing the recovery of the evidence.

Additionally members shall, when notifying their supervisor of the use of force, notify their supervisor regarding the non- recovery of evidence.

#### **Equipment Use Reporting**

Any personnel firing or using chemical agents outside of training shall report the use to their supervisor. Uses of force shall be handled as detailed in the next section. Other uses shall be reported via the military equipment deployment notification process by the deploying member’s commander.

Documentation – As required by Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE, a supervisor shall be summoned to the scene to conduct a force investigation whenever chemical agents are used.

**Inquiry and Complaint Process**

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.<sup>4</sup>

Refer to DGO K-7 for additional information on inquiries around controlled equipment.

<sup>4</sup> DGO M-3 states, “IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander.”



## DEPARTMENTAL GENERAL ORDER

### **I-26: REMOTE CONTROLLED GROUND SYSTEM (ROBOTS) and POLE CAMERAS**

Effective Date:

Coordinator: Electronic Services Unit, Special Operations Division

## **REMOTE CONTROLLED GROUND SYSTEM (ROBOT)**

### **I. VALUE STATEMENT**

The Oakland Police Department promotes approved and safe technology into its everyday policing. OPD strives in protecting and serving its diverse community and city through fair, equitable and constitutional policing. Robots and pole cameras are implemented into OPD's strategy for success. 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, robots and pole cameras will be utilized in accordance with OPD Core Values and our Mission.

### **II. DESCRIPTION OF THE TECHNOLOGY**

#### **A. Robot and Pole Cameras Components**

A Remote-Controlled Ground System (Robot): is an unmanned machine guided and remotely controlled by an individual as well as all the supporting or attached systems designed for gathering information through imaging, recording or by any other means. Generally, a Robot consists of:

- A Robot, composed of:
  - Platform/Body/Frame that is capable of remote movement,
  - Radio frequency and antenna equipment to communicate with a remote-control unit;
  - A computer chip for technology control;
  - A camera;

- Battery charging equipment for the remote ground / aquatic vehicle and remote control.
- Two-way communication (talk/listen) with transmitter and receivers and Push to Talk functionality
- Robotic claw; and
- Single or Double (Twin) pan disrupter on telescoping arm with camera system
- Remote controlled unit (LCD display) with brightness control
- A Pole Camera, composed of:
  - Extendable pole with mounted camera, with thermal imaging capabilities;
  - Battery charging equipment for pole and LCD display with brightness control
  - Pole cameras do not require remote controlled devices. They are solely and human-operated by an ESU team member.

## **B. Purpose**

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 and/or Pole Camera will be in strict accordance with constitutional and privacy rights and OPD Policy.

## **C. How the System Works**

1. Robots are controlled from a wireless remote-control unit. The wireless remote-control unit allows operators to remotely navigate the Robot and manipulate the robotic claw and pan disrupters.
2. Pole Cameras are human-operated and require kinetic energy to be operated.

### III. GENERAL GUIDELINES

#### A. Authorized Use

1. Only authorized operators who have completed the required training shall be permitted to operate the Robots and Pole Cameras.
2. Robots and Pole Cameras may only be used for the following specified situations:
  - a. Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
  - b. Disaster management;
  - c. Missing or lost persons;
  - d. Hazardous material releases;
  - e. Sideshow events where many vehicles and reckless driving is present;
  - f. Rescue operations;
  - g. Training;
  - h. Hazardous situations which present a high risk to officer and/or public safety, to include:
    - i. Barricaded suspects;
    - ii. Hostage situations;
    - iii. Armed suicidal persons;
    - iv. Arrest of armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime");
    - v. Service of high-risk search and arrest warrants involving armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime"; and
    - vi. Exigent circumstances
      1. A monitoring commander (Lieutenant or above) may authorize a Robot or Pole Camera deployment under exigent circumstances. A report shall be completed and forwarded to the Chief of Police and the OPD Robot and Pole Camera Coordinator for all deployments authorized under exigent circumstances, for a full review to determine policy

compliance.

### **3. Deployment Authorization**

- a. Deployment of an OPD Robot and or Pole Camera shall require the authorization of the incident commander, who shall be of the rank of Lieutenant of Police or above.
- b. Incident commanders of a lower rank may authorize the use of a Robot and or Pole Camera during exigent circumstances. In these cases, authorization from a command-level officer shall be sought as soon as is reasonably practical.

### **4. Detachable Tools**

- a. Several ground robots have tools which are detachable. These tools allow for missions such as delivery of packages, opening and closing of doors, puncturing of tires and glass and disruption of locks and or packages.
  - i. Detachable tools include the following:
    1. 360 degree rotating robotic claw with telescoping camera on a telescoping arm.
    2. A detachable OC canister, which can deploy a less lethal chemical agent. The utilization of the OC can only be utilized in accordance with DGO K-03 and K-04 reporting.
    3. A detachable glass and/or tire puncture which can deflate or immobilize tires and or shatter glass
    4. A detachable pan disrupter, which utilizes a 12-gauge blank shotgun round and water to breach secured locks/doors or disrupt suspicious packages.
    5. The detachable glass and/or tire puncture and the detachable pan disruptor can cause minor to serious injury. The utilization of such attachments should not be used upon a person absent exigent circumstance. All personnel shall adhere to department policy DGO K-03 and K-04 if such circumstances arise.

### **5. Deployment Logs**

- a. A commander authorizing deployment of a Robot or Pole

Camera shall send notification of the deployment via the military equipment deployment notification process.

- b. Deployment logs will provide all mission deployment details for each land, and or water deployment.

## **6. Privacy Considerations**

- a. Operators and observers shall not intentionally transmit images of any location where a person would have a reasonable expectation of privacy (e.g. residence, yard, enclosure). When the Robot or Pole Camera is being deployed, operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Operators shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently transmitting images of areas where there is a reasonable expectation of privacy.

## **B. Prohibited Use**

1. Robots and Pole Cameras shall not be equipped with any weapon systems or analytics capable of identifying groups or individuals, including but not limited to facial recognition or gait analysis.
2. Robots and Pole Cameras shall not transmit any data except to their respective remote-controlled units (LCD Display).
3. Robots shall not be used for the following activities:
  - a. For any activity not defined by “Authorized Use” Part 3 above.
  - b. Conducting surveillance not related to an authorized operation;
  - c. Targeting a person based on their individual characteristics, such as but not limited to race, ethnicity, national origin, religion, disability, gender, clothing, tattoos, and/or sexual orientation when not connected to actual information about specific individuals related to criminal investigations.
  - d. For the purpose of harassing, intimidating, or discriminating against any individual or group.
  - e. To conduct personal business of any type.

### **C. Communications**

Notifications will be made to the Communications Section for notifying patrol personnel, when OPD Robot operations are authorized by a Commander.

## **IV. ROBOT DATA**

### **A. Data Collection, Access and Sharing**

Robot and Pole Cameras deployed by OPD shall not share any data with any external organizations via integrated technology. Robots and pole cameras only send data to the ground operator's controller via encrypted radio signals – there is no internet connection for external data sharing and no data recording.

## **V. ROBOT ADMINISTRATION**

### **A. System Coordinator / Administrator**

1. The ESU will appoint a program coordinator who will be responsible for the management of the Robot and Pole Camera program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices.
2. The ESU Unit Supervisor, or other designated OPD personnel shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that covers all use of Robot and Pole Camera technology during the previous year. The report shall include all report components compliant with Ordinance No. 13489 C.M.S.

### **3. Submission and evaluation of requests for Robot use**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a uniform protocol for submission and evaluation of requests to deploy a Robot and or Pole Camera, including urgent requests made during ongoing or emerging incidents.



**B. Program improvements**

The ESU Unit Supervisor, or other designated OPD personnel, shall recommend and accept program improvement suggestions, particularly those involving safety and information security.

**C. Maintenance**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a Robot and Pole Camera inspection, maintenance and record-keeping protocol to ensure continuing deployment of the tracking purposes, and include this protocol in the Robot and Pole Camera procedure manual. Maintenance and record-keeping should also include expenditures such as purchase of new equipment and mechanical repairs.

**D. Cost Analysis**

The ESU Unit Supervisor, or designated OPD personnel, shall develop a protocol for developing and documenting data for a cost-benefit analysis. This cost benefit analysis will include amount of ESU personal involved, ESU equipment utilized, suspect(s) located (e.g. gender, race and age) and the recovery of evidentiary items (e.g. firearms, clothing, vehicles, etc).

**E. Training**

The ESU Unit Supervisor, or other designated OPD personnel, shall ensure that all authorized operators have completed all required department-approved training in the operation, applicable laws, policies and procedures regarding use of the Robot and Pole Camera.

**F. Auditing and Oversight**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a protocol for documenting all Robot and Pole Camera uses in accordance to this policy with specific regards to safeguarding the privacy rights of the community and include this in the Robot and Pole Camera procedure manual and the annual Robot and Pole Camera report. The Robot and Pole Camera supervisor will develop an electronic record of time, location, equipment, purpose of deployment, and number of Robot and Pole Camera personal involved. Whenever a deployment occurs, the authorizing commander, or operator, will send an electronic notification/submission to the SOS Commander to include the topics

listed above. This protocol will allow the SOS Commander to have a running log of all deployments and assist in the annual report.

### G. Reporting

The ESU Unit Supervisor, or other designated OPD personnel, shall monitor the adherence of personnel to the established procedures and shall provide periodic reports on the program to the Chief of Police.

The ESU Unit Supervisor, or other designated OPD personnel, shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that contains a summary of authorized access and use.

### H. Inquiry and Complaint Process

*(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.*

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.<sup>[1]</sup> Refer to DGO K-7 for additional information.

By Order of

LeRonne L. Armstrong

Chief of Police

Date Signed:

<sup>[1]</sup> DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."

## **Description and Purpose**

<b>ICOR Mini Caliber</b>	
<b>Description</b>	An unmanned machine guided and remotely controlled by an officer. The ICOR Mini Caliber is ground operated and has several attachments which can assist in opening doors, delivery of items and or the ability to demobilize vehicle's tires, break glass or bypass locks or destroy packages.
<b>Manufacturer's Product Description</b>	Designed for rapid tactical missions, the robot is simple to operate and quick to deploy for searching rooms, hallways, stairwells and confined spaces. With rubber tracks and articulating front and rear flippers, the Mini-CALIBER effortlessly climbs stairs. It also includes an extendible rotating claw arm that simplifies opening door handles.
<b>Capabilities / How the item works</b>	The robot is controlled by remote controllers. Operators will utilize the remote controller to direct the robot to climb stairs, move in all angles and control the robotic arm.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years. Batteries have shorter life spans as they gradually deteriorate due to normal usage
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, robots are beneficial in providing a ground level perspective of interior, or exterior, locations during barricaded incidents. The usage of robots is in line with the mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.

<b>Avatar Tactical Robot</b>	
<b>Description</b>	An unmanned machine guided and remotely controlled by an officer. The Avatar Tactical Robot is ground operated and has a robotic arm attachment which can assist in opening doors, delivery of items.

<b>Manufacturer's Product Description</b>	The AVATAR enhances the capabilities of SWAT and tactical response teams by allowing them to quickly and safely inspect dangerous situations, there is no longer a need to send personnel in before you've had a chance to assess the situation.
<b>Capabilities / How the item works</b>	The robot is controlled by remote controllers. Operators will utilize the remote controller to direct the robot to climb stairs, move in all angles and control the robotic arm.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years. Batteries have shorter life spans as they gradually deteriorate due to normal usage
<b>Quantity</b>	2 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, robots are beneficial in providing a ground level perspective of interior, or exterior, locations during barricaded incidents. The usage of robots is in line with the mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.

<b>Andros Mark 5A-1</b>	
<b>Description</b>	An unmanned machine guided and remotely controlled by an officer. The Andros Mark 5A-1 is ground operated and has several attachments which can assist in opening doors, delivery of items and or the ability to demobilize vehicle's tires, break glass or bypass locks or destroy packages.
<b>Manufacturer's Product Description</b>	Is a bomb disposal robot for the purpose of handling potential explosives without risking any lives. First responders around the world depend on the MarkV to handle potential hazards and explosives from outside the danger zone.
<b>Capabilities / How the item works</b>	The robot is controlled by remote controllers. Operators will utilize the remote controller to direct the robot to climb stairs, move in all angles and control the robotic arm.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years. Batteries have shorter life spans as they gradually deteriorate due to normal usage
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, robots are beneficial in providing a ground level perspective of interior, or exterior, locations during barricaded incidents. The usage of robots is in line with the

	mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.
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<b>Recon Scout Reconnaissance Robot</b>	
<b>Description</b>	An unmanned machine guided and remotely controlled by an officer. The Recon Scout Reconnaissance Robot is ground operated, light weight at 1.2lbs.
<b>Manufacturer's Product Description</b>	Recon Scout XT, a small throwable reconnaissance robot is for use in law enforcement and military applications. The robot can be used by warfighters, dismounted patrols, special weapons and tactics (SWAT) and other special operations teams. The robot offers real-time situational awareness and greater stand-off distance.
<b>Capabilities / How the item works</b>	The robot is controlled by remote controllers. Operators will utilize the remote controller to direct the robot to climb stairs, move in all angles and control the robotic arm.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years. Batteries have shorter life spans as they gradually deteriorate due to normal usage
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, robots are beneficial in providing a ground level perspective of interior, or exterior, locations during barricaded incidents. The usage of robots is in line with the mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.

<b>Tactical Electronics LPSS3 Long Police Wireless Video Camera</b>	
<b>Description</b>	An extendable pole up to 20ft with a camera mounted.
<b>Manufacturer's Product Description</b>	The LPSS3 Long Pole Search System provides wireless video surveillance of subjects at significant heights and distances. The system features a 20ft telescoping pole, a flexible neck camera head, eight IR LEDs, and an internal DVR for video recording. The main housing is conveniently stored inside the collapsed pole for timely stowaway. The upgraded features and streamlined design of the LPSS3 combine compact portability and rapid deployment with covert wireless vision.

<b>Capabilities / How the item works</b>	The pole is controlled by a police officer through kinetic energy. Operators will utilize the pole and extend or retract the pole to the desired length and the camera will transmit live feed images or video on a remote LCD device.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years.
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, pole cameras are beneficial in providing a wireless video live feed to officers at a safe location. The usage of cameras is in line with the mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.

<b>Zistos Tactical System</b>	
<b>Description</b>	An extendable pole up to 14ft with a camera mounted.
<b>Manufacturer's Product Description</b>	When it is too dangerous to physically look into a room or space, let Zistos be your eyes. Our wide range of HD Tactical Pole Cameras help law enforcement and government agency personnel more safely and effectively perform surveillance functions during tactical missions.
<b>Capabilities / How the item works</b>	The pole is controlled by a police officer through kinetic energy. Operators will utilize the pole and extend or retract the pole to the desired length and the camera will transmit live feed images or video on a remote LCD device.
<b>Expected lifespan</b>	Not listed with manufacturer or website; with care can last several years.
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, pole cameras are beneficial in providing a wireless video live feed to officers at a safe location. The usage of cameras is in line with the mission of de-escalation and places officers at a safe distance. This allows for the safe resolution of critical incidents and mitigates use of force incidents.

## **Fiscal Costs**

### ***Initial Costs***

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

Initial costs of the items were approximately:

ICOR Mini Caliber: ~ \$119,000 / unit

Avatar Tactical Robot: ~ \$40,000 / unit

Andros Mark 5A-1: ~ \$280,000 / unit

Recon Scout Reconnaissance Robot: ~ \$7,500 / unit

Tactical Electronics LPSS3 Long Police Wireless Video Camera: ~ \$ 11,000

Zistos Tactical System: ~ \$11,000

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

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

Robots and pole cameras are stored in locked and secured facility, and or vehicle, at the Oakland Police Department. The Electronic Services Unit (ESU) members have access to robots and pole cameras and will respond to an incident with the equipment when requested by an Incident Commander. ESU members may be on duty during incidents requiring the Robot(s) or pole camera(s). If they are, they may deploy as patrol officers, or as their regular duty assignment, and utilize any one of the devices. For a tactical team call-out, other ESU members will respond even if they are off-duty, resulting in overtime expenditures. The amount of the expenditure is based on the time the incident takes to resolve. Over time deployments can be tracked utilizing an i-code through fiscal.

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

Potential adverse effects are myriad, and there is no way of anticipating every possible adverse impact. Additionally, even some known possible adverse effects may be so remote that they were not assessed for the purposes of this report. 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.

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.

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

Costs for operation include training, personnel, maintenance and upgrade costs.

Training and personnel costs – Currently, ESU has mandatory training twice a month. This training consists of two 10-hour days and typically occurs at the OPD or any other nearby facility or location. There has not been any rental fees or associated costs to locations of training currently. Some training may either require the ESU member attending to be on overtime, or for overtime to backfill that respective ESU members position while they are at training. If an ESU member elects to attend a POST certified training or outside training course there could be associated costs. Unknown yearly costs.

Storage costs – Robots and pole cameras are housed at secured OPD facilities and vehicles and there are no associated costs.

Maintenance and upgrade costs – Currently, there is no known life span for a robot or pole camera. With proper care the life expectancy will be longer. However, normal wear and tear can take place and will require replacement of parts. Depending on the part, the cost per item can range from fractions of a dollar to several hundred dollars.



## **Impacts**

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

#### Deliberate misuse.

Though unlikely, it is possible that Robots and Pole Cameras 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.

Unintentional misuse of Robots and Pole Cameras 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 Robots and Pole Cameras 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.

#### Impact of unintended persons.

The attachments on the robots, such as the tire puncture, window punch and pan disruptor are available for demobilizing vehicles, shattering a window and bypassing a bolt/locked door or destroying a package. Anytime these attachments are deployed in the field, there exists the possibility that the attachment may cause minor to serious injury to a person. However, this possibility exists and is remedied by training; ESU operators train bi-monthly and only ESU operators are allowed to prepare and deploy robots in the field.

## **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](#)***

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 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 Andros MarkV-A1 has an approximate top speed of 3.5mph while the Andros and ICOR have top speeds of approximately 2mph. All robots are controlled by remote and there is no GPS and no pre-designated or mapped routes. These robots are equipped with lights and camera.

### ***Procedural safeguards***

OPD only allows ESU members, who have attended ESU training to operate robots and pole cameras. Officers must submit a letter of intent and go through a selection process prior to being selected to join the OPD ESU. Once selected, Officers must attend bi-monthly training and attend an OPD Basic Robot and Pole Camera Operators course, which is 40 hours. OPD ESU created this program in 2022 to educate new ESU operators with all the robots and pole cameras.

## **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.

Robots and pole cameras have been utilized by OPD tactical team since approximately 2011. In late 2018, the ESU Team Leader incorporated the robots and pole cameras with every day patrol calls. OPD officers in patrol or working field assignments, and having ESU training, would respond to calls to service and deploy robots and pole cameras to assist in critical incidents.

There are many different types of robot and pole camera products. Although several agencies now deploy UAVs, robots and pole cameras have not become obsolete. UAVs cannot open doors as a robot can. UAVs also may not fit in attic or basement entry ways where a pole camera can.

## **Location**

Robots and Pole Cameras 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**

Other agencies utilize robots and pole cameras similar to OPD. As mentioned, even though several agencies have adopted UAV Programs, their robot and pole camera usages have not gone obsolete. Other agencies do not have any robots or pole cameras, while others have severely outdated technology.

Santa Rosa Police Department have Avatar robots and deployed approximately ten (10) times in 2021. The San Francisco Police Department (SFPD) also has Avatar robots and the Andros Mark 5A-1. SFPD hosts a yearly maintenance course on the Andros, where a representative attend and assists in repairs, maintenance, mechanical and troubleshoot issues.

Robots and pole cameras places officers at a place of advantage for safety. The usage of use technology is paramount in the de-escalation of incidents and the mitigation in use of force.



## DEPARTMENTAL GENERAL ORDER

### I-25: UNMANNED AERIAL SYSTEM (UAS)

Effective Date:

Coordinator: Electronic Services Unit, Special Operations Division

## UNMANNED AERIAL SYSTEMS (UAS)

### I. VALUE STATEMENT

The Oakland Police Department 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.

### II. DESCRIPTION OF THE TECHNOLOGY

#### A. UAS Components

An Unmanned Aerial System (UAS) is an unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV), and all of the supporting or attached components designed for gathering information through imaging, recording or any other means. Generally, a UAS consists of:

- A UAV, composed of:
  - Chassis with several propellers for flight
  - Control propellers and other flight stabilization technology (e.g. accelerometer, a gyroscope),
  - Radio frequency and antenna equipment to communicate

with a remote-control unit;

- A computer chip for technology control;
- A camera, with thermal imaging capabilities;
- A digital image/video storage system for recording onto a digital data memory card;
- A removable speaker
- A remote-control unit; and
- Battery charging equipment for the aircraft and remote control.

## **B. Purpose**

UAS have been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. UAS can support first responders in hazardous incidents that would benefit from an aerial perspective. In addition to hazardous situations, UAS have applications in locating and apprehending subjects, missing persons, and search and rescue operations as well as task(s) that can best be accomplished from the air in an efficient and effective manner. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

## **C. How the System Works**

1. The FAA Modernization and Reform Act of 2012 provides for the integration of civil unmanned aircraft systems into national airspace by September 1, 2015.
2. UAS are controlled from a remote-control unit. Drones can be controlled remotely, often from a smartphone or tablet. Wireless connectivity lets pilots view the drone and its surroundings from a birds-eye perspective. Users can also leverage apps to pre-program specific GPS coordinates and create an automated flight path for the drone. Another wirelessly enabled feature is the ability to track battery charge in real time, an important consideration since drones use smaller batteries to keep their weight low.
3. UAS have cameras so the UAS pilot can view the aerial perspective.
4. UAS use secure digital (SD) memory cards to record image and video data; SD cards can be removed from UAS after flights to input into a computer for evidence.

### III. GENERAL GUIDELINES

#### A. Authorized Use

1. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. UAS operations should be conducted in accordance with FAA approval.
2. Only authorized operators who have completed the required training shall be permitted to operate the UAS.
3. UAS may only be used for the following specified situations:
  - a. Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
  - b. Disaster management;
  - c. Missing or lost persons;
  - d. Hazardous material releases;
  - e. Sideshow events where many vehicles and reckless driving is present;
  - f. Rescue operations;
  - g. Scene documentation for evidentiary or investigation value (e.g. crime, collision, or use of force scenes);
  - h. Training;
  - i. Hazardous situations which present a high risk to officer and/or public safety, to include:
    - i. Barricaded suspects;
    - ii. Hostage situations;
    - iii. Armed suicidal persons;
    - iv. Arrest of armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime");
    - v. Operational pre-planning [prior planning for services of search and arrest warrants. This would provide up-to-date intelligence (e.g. terrain, building layout) so that personnel allocate appropriate resources and minimize last minute chance encounters and uses of force]; and
    - vi. Service of high-risk search and arrest warrants involving armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime"); and



- vii. Exigent circumstances
  - 1. A monitoring commander (Lieutenant or above) may authorize a UAS deployment under exigent circumstances (as defined in OPD DGO K-03 “Exigent Circumstances”; Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, or the escape of a suspect). A report shall be completed and forwarded to the Chief of Police and the OPD UAS Coordinator for all UAS deployments authorized under exigent circumstances, for a full review to determine policy compliance.

#### **4. Deployment Authorization**

- a. Deployment of an OPD UAS shall require the authorization of the incident commander, who shall be of the rank of Lieutenant of Police or above.
- b. Incident commanders of a lower rank may authorize the use of a UAS during exigent circumstances. In these cases, authorization from a command-level officer shall be sought as soon as is reasonably practical.

#### **5. Deployment Logs**

- a. ESU shall record details from each UAS deployment onto a flight log which shall be submitted to ESU and kept on file for FAA records purposes.
- b. Flight logs will provide all mission deployment details for each flight.

#### **6. Privacy Considerations**

- a. Operators and observers shall adhere to FAA altitude regulations.
- b. Operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g. residence, yard,

enclosure). When the UAS is being flown, operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Operators and observers shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

**B. Prohibited Use**

1. UAS shall not be equipped with any weapon systems or analytics capable of identifying groups or individuals, including but not limited to facial recognition or gait analysis.
2. UAS and remote-control units shall not transmit any data except to each other. Data shall only be recorded onto removable SD cards.
3. UAS shall not be used for the following activities:
  - a. For any activity not defined by “Authorized Use” Part 3 above.
  - b. Conducting surveillance not related to an authorized operation;
  - c. Targeting a person based on their individual characteristics, such as but not limited to race, ethnicity, national origin, religion, disability, gender, clothing, tattoos, and/or sexual orientation when not connected to actual information about specific individuals related to criminal investigations.
  - d. For the purpose of harassing, intimidating, or discriminating against any individual or group.
  - e. To conduct personal business of any type.

**C. Communications**

Notifications will be made to the Communications Section for notifying patrol personnel, when UAS operations are authorized by a Commander.

## **IV. UAS DATA**

### **A. Data Collection**

The video recording only function of the UAS shall be activated whenever the UAS is deployed, and deactivated whenever the UAS deployment is completed. The UAS operator will rely on SD Cards for video recordings.

### **B. Data Retention**

Video recording collected by OPD UAS shall be retained five days and deleted on the fifth day unless:

1. The recording is needed for a criminal investigation;
2. The recording is related to a City of Oakland Police department administrative investigations (Internal Affairs Investigation).

The program coordinator shall develop procedures to ensure that data are retained and purged in accordance with applicable record retention schedules.

### **C. Data Access**

OPD's Electronic Services Unit (ESU) shall be responsible for the maintenance and storage of UAS equipment. Members approved to access UAS equipment under these guidelines are permitted to only access the data for administrative or criminal investigation purposes.

UAS image and video data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

1. The agency makes a written request for the OPD data that includes:
  - a. The name of the requesting agency.
  - b. The name of the individual making the request.
  - c. The basis of their need for and right to the information.
    - i. A right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law. A need to know is a compelling reason to request information such as direct involvement in an investigation.

2. The request is reviewed by the Chief of Police, Assistant Chief of Police, or Deputy Chief/ Deputy Director or designee and approved before the request is fulfilled.
3. The approved request is retained on file, and incorporated into the annual report pursuant to Oakland Municipal Code Section 9.64.010 1.B.

**D. Data storage, access, and security**

The program coordinator shall develop procedures to ensure that all UAS SD card data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence. These procedures include strict adherence to chain of custody requirements.

Electronic trails, including encryption, authenticity certificates, and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

**E. Data Sharing**

UAS systems deployed by OPD shall not share any data with any external organizations via integrated technology. The UAS only sends data to the flight controller via encrypted radio signals – there is no internet connection for external data sharing.

**F. Public Access**

UAS data which is collected and retained under subsection B of this section is considered a “law enforcement investigatory file” pursuant to Government Code § 6254, and shall be exempt from public disclosure. UAS data which is retained pursuant to subsection B shall be available via public records request pursuant to applicable law regarding Public Records Requests as soon as the criminal or administrative investigations has concluded and/or adjudicated.

**G. Data Protection and Security**

All UAS SD card data will be secured in a manner (e.g. lockbox) only accessible to ESU personnel. All evidence from UAS SD cards shall be submitted to the OPD Evidence Unit for safe storage.

**V. UAS ADMINISTRATION**

**A. System Coordinator / Administrator**

1. The ESU will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices.
2. The ESU Unit Supervisor, or other designated OPD personnel shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that covers all use of the UAS technology during the previous year. The report shall include all report components compliant with Ordinance No. 13489 C.M.S.
3. **FAA Certificate of Waiver or Authorization (COA)**  
COA (Certificate of Authorization) given by the FAA which grants permission to fly within specific boundaries and perimeters. The UAS Coordinator will maintain current COA's consistent with FAA regulations. The ESU Unit Supervisor, or other designated OPD personnel, shall coordinate the application process and ensure that the COA is current.
4. **Submission and evaluation of requests for UAS use**  
The ESU Unit Supervisor, or other designated OPD personnel, shall develop a uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

**B. Facilitating law enforcement requests**

The ESU Unit Supervisor, or other designated OPD personnel, shall facilitate law enforcement access to images and data captured by UAS as allowable by department policy and/or City of Oakland ordinance.

**C. Program improvements**

The ESU Unit Supervisor, or other designated OPD personnel, shall recommend and accept program improvement suggestions, particularly those involving safety and information security.

**D. Maintenance**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, and include this protocol in the UAS procedure manual. Maintenance and record-keeping should also include expenditures such as purchase of new equipment and mechanical repairs.

**E. Cost Analysis**

The ESU Unit Supervisor, or designated OPD personnel, shall develop a protocol for developing and documenting data for a cost-benefit analysis. This cost benefit analysis will include amount of UAS personal involved (operators and visual observers), UAS equipment utilized, suspect(s) located (e.g. gender, race and age) and the recovery of evidentiary items (e.g. firearms, clothing, vehicles, etc).

**F. Training**

The ESU Unit Supervisor, or other designated OPD personnel, shall ensure that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.

**G. Auditing and Oversight**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a protocol for documenting all UAS uses in accordance to this policy with specific regards to safeguarding the privacy rights of the community and include this in the UAS procedure manual and the annual UAS report. The UAS supervisor will develop an electronic record of time, location, equipment, purpose of deployment, and number of UAS personal involved. Whenever a deployment occurs the operator will send notification/submit (either electronically or hard copy) to the UAS Supervisor to include the topics listed above. This protocol will allow the UAS supervisor to have a running log of all deployments and assist in the annual report.

## H. Reporting

The ESU Unit Supervisor, or other designated OPD personnel, shall monitor the adherence of personnel to the established procedures and shall provide an annual report on the program to the Chief of Police.

The ESU Unit Supervisor, or other designated OPD personnel, shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that contains a summary of authorized access and use.

## I. Inquiry and Complaint Process

*(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.*

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.<sup>[1]</sup> Refer to DGO K-7 for additional information.

## J. Training

The ESU Unit Supervisor, or other designated OPD personnel, shall develop an operational procedure manual governing the deployment and operation of a UAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities.

By Order of

LeRonne L. Armstrong

<sup>[1]</sup> DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."

Chief of Police

Date Signed:



## **Description and Purpose**

<b>DJI Mavic Enterprise 2 Advanced</b>	
<b>Description</b>	A Drone is an unmanned aircraft. Drones are more formally known as unmanned aerial vehicles (UAVs) or unmanned aircraft systems (UAS), which describes the UAS, remote controller and operator.
<b>Manufacturer's Product Description</b>	Compact Commercial Drone with Thermal and Zoom Dual-Camera, and Spotlight and Loudspeaker Attachments Built for Search & Rescue, Fire Fighting, Inspection, and More
<b>Capabilities / How the item works</b>	UAVs are controlled by remote controllers. Operators will utilize the remote controller to direct the UAV to fly, hover, or land. Capable of flight outside.
<b>Expected lifespan</b>	UAVs will last approximately 2 years or more depending on usage. Batteries have shorter life spans as they gradually deteriorate due to normal usage.
<b>Quantity</b>	5 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, UAV's are beneficial in providing a bird's eye view during perimeters or barricaded suspects, which reduces or mitigates use of force and injuries to all parties. UAVs are also beneficial in search and rescue operations and crime scene documentation as they provide aerial coverage and views not possible while at ground level.

<b>DJI Mavic Mini 2</b>	
<b>Description</b>	A Drone is an unmanned aircraft. Drones are more formally known as unmanned aerial vehicles (UAVs) or unmanned aircraft systems (UAS), which describes the UAS, remote controller and operator.
<b>Manufacturer's Product Description</b>	The Mavic Mini from DJI is a compact drone weighing in at under 9 oz.
<b>Capabilities / How the item works</b>	UAVs are controlled by remote controllers. Operators will utilize the remote controller to direct the UAV to fly, hover, or land. Capable of indoor and outdoor flight.
<b>Expected lifespan</b>	UAVs will last approximately 2 years or more depending on usage. Batteries have shorter life spans as they gradually deteriorate due to normal usage.

<b>Quantity</b>	2 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, UAV's are beneficial in providing a bird's eye view during perimeters or barricaded suspects, which reduces or mitigates use of force and injuries to all parties. UAVs are also beneficial in search and rescue operations and crime scene documentation as they provide aerial coverage and views not possible while at ground level.

<b>DJI Matrice 300 RTK</b>	
<b>Description</b>	A Drone is an unmanned aircraft. Drones are more formally known as unmanned aerial vehicles (UAVs) or unmanned aircraft systems (UAS), which describes the UAS, remote controller and operator.
<b>Manufacturer's Product Description</b>	The Matrice 300 RTK is a commercial drone features a 1080p video, which provides a live HD view from the aircraft's camera at distances of up to 9.3 miles (15 km) with Thermal and Zoom Dual-Camera, and Spotlight and Loudspeaker Attachments Built for Search & Rescue, Fire Fighting, Inspection, and More.
<b>Capabilities / How the item works</b>	UAVs are controlled by remote controllers. Operators will utilize the remote controller to direct the UAV to fly, hover, or land. Capable of outdoor flight.
<b>Expected lifespan</b>	UAVs will last approximately 2 years or more depending on usage. Batteries have shorter life spans as they gradually deteriorate due to normal usage.
<b>Quantity</b>	1 owned
<b>Purpose and intended uses and/or effects</b>	Understanding that real time intelligence can provide officers safety and tactical advantages, UAV's are beneficial in providing a bird's eye view during perimeters or barricaded suspects, which reduces or mitigates use of force and injuries to all parties. UAVs are also beneficial in search and rescue operations and crime scene documentation as they provide aerial coverage and views not possible while at ground level.

## **Fiscal Costs**

### ***Initial Costs***

The Oakland Police Department (OPD) currently owns/possesses/uses the equipment.

Initial costs of the items were approximately:

DJI Mavic Enterprise 2 Advanced: ~ \$7,300 / unit

DJI Mavic Mini 2: ~ \$700 / unit

DJI Matrice 300 RTK: ~ \$40,250

Some of the costs of these initial items were borne by private donors.

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

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

Regardless of UAV, the UAVs are stored in locked and secured facility at the Oakland Police Department. The Electronic Services Unit (ESU) members have access to UAVs and will respond to an incident with the UAV when requested by an Incident Commander. ESU members may be on duty during incidents requiring the UAV. If they are, they may deploy as patrol officers, or as their regular duty assignment, and utilize any one of the UAVs. For a tactical team call-out, other ESU members will respond even if they are off-duty, resulting in overtime expenditures. The amount of the expenditure is based on the time the incident takes to resolve. Over time deployments can be tracked utilizing an i-code through fiscal.

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

Potential adverse effects are myriad, and there is no way of anticipating every possible adverse impact. Additionally, even some known possible adverse effects may be so remote that they were not assessed for the purposes of this report. 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.

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.

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

Costs for operation include training, personnel, maintenance and upgrade costs.

Training and personnel costs – Currently, ESU has mandatory training twice a month. This training consists of two 10-hour days and typically occurs at the OPD or any other nearby facility or location. There has not been any rental fees or associated costs to locations of training currently. Some training may either require the ESU member attending to be on overtime, or for overtime to backfill that respective ESU members position while they are at training. If an ESU member elects to attend a POST certified training or outside training course there could be associated costs. Unknown yearly costs.

Storage costs – UAVs are housed at secured OPD facilities and vehicles and there are no associated costs.

Maintenance and upgrade costs – Currently, there is no known life span for an UAV, but manufactures suggest 2 years. With proper care the life expectancy will be longer. However, normal wear and tear can take place and will require replacement of parts. Depending on the part, the cost per item can range from fractions of a dollar to several hundred dollars.

There are random software updates to all UAVs, which require the usage of WiFi to download. All software downloads and/or upgrades are free.

## **Impacts**

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

#### Deliberate misuse.

Though unlikely, it is possible that Unmanned Aerial System (UAS); Drones 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.

Unintentional misuse of Unmanned Aerial System (UAS); Drones 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 Unmanned Aerial System (UAS); Drones 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.

#### Privacy Considerations.

The Department also recognizes the deployment of drones within cities can capture images which others feel are private or intrusive. The department worked with the Privacy Advisory Committee for several years in drafting policy with direct emphasis on privacy considerations. Policy clearly states when a UAV shall record, when it shall stop recording, the prohibited usages and the length of period recordings can be kept on file. Random surveillances are also prohibited.

## **Mitigations**

### ***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 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 Mavic Enterprise 2 Advanced: have obstacle avoidance system enabled by technologies such as infrared sensors, stereo vision sensors, ultrasonic sensors, and GPS. These sensors work together to make sure the drone detects and avoids obstacles in the flight path to prevent crashes.

The and the Matrice 300RTK: have obstacle avoidance system enabled by technologies such as infrared sensors, stereo vision sensors, ultrasonic sensors, and GPS. These sensors work together to make sure the drone detects and avoids obstacles in the flight path to prevent crashes. The Matrice 300RTK further has the ability for dual pilot capability where one pilot operates flight path and the other operates the camera and spotlight.

The Mavic Mini 2 does not have obstacle avoidance, however they do have GPS.

For each UAV, a Visual Observer (VO) is required per policy, which is an added protection to avoid collisions. Additionally, prior to any deployment OPD officers must request permission from the Air Traffic Controller (ATC) to fly. Officers are proficient in reading FAA air space regulations and understand above ground level (AGL) restrictions and no fly zones. If officers request to fly or exceed AGL restrictions they must contact Washington, D.C. and request permission.

### ***Procedural safeguards***

OPD only allows ESU members, who have attended ESU training, and are FAA107 Certified to deploy a UAV. Officers must submit a letter of intent and go through a selection process prior to being selected to join the OPD ESU. Once selected, Officers must attend bi-monthly training and it is recommended to attend one of the following courses prior to deploying a UAV in the field:

- 1) FAA107 Basic Pilot Operators Course consisting of day flying and test preparation, and/or
- 2) POST Certified UAV Pilot Operators Course consisting of day flying and test preparation

Once one of these courses have been attended, or the officer has become FAA107 certified, the officer must attend the following:

- 3) OPD in-house Basic Operators Course consisting of 24 hours of flight, to include nighttime flying.

## **Alternatives**

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

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.

There are other manufacturers of UAVs, but the majority of agencies utilize DJI products due to the advanced technology, the ease of use, the HD quality of video and the durability of the product. Most other drones have similar capabilities but are far behind in technology and quality.

## **Location**

Unmanned Aerial System (UAS); Drones 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:



UAVs at times require firmware updates or random software updates to all UAVs, which require the usage of WiFi to download. All software downloads and/or upgrades are free and are supplied by DJI.

Additionally, as noted above, communication with ATC is necessary prior to deployment, and clearance from Washington, D.C. FAA ATC may also be required officers feel the need to operate passed air space requirements.

## **Track Record**

Other agencies utilize UAVs and the Alameda County Sheriff's Office, Chula Vista Police Department and Huntington Police Department are the founding departments in California for creating UAV programs. These departments set the standards for UAV programs throughout the nation and as police departments and other law enforcement entities begin to adapt and create their own programs, they have realized the benefits of such programs. Many agencies have discovered the safety it brings to both officers and the community. Use of Force incidents are drastically curbed which brings incidents to a safe resolution, but also assists in preventing future civil litigations. Agencies have also discovered the addition of these fleets assist immensely in lost/missing person searches, search and rescue and crime scene recreations.

Several agencies still do not have UAV programs such as, BART Police, San Francisco Police Department, Berkeley Police Department, Burlingame Police Department, Alameda Police Department and many more.

Other agencies such as Chula Vista Police Department have a full time UAV program, which began in 2015, and label their program as "Drone as First Responder Program". Their full time Drone Team deploy from the roof top of their agency and respond to priority calls for service. They provide real-time intelligence to responding officers, or clear the service call prior to any patrol vehicle arriving on scene.

ACSO began their program in 2015. They were one of the first agencies have drones in the field with patrol officers. They assisted in perimeters, barricaded suspects, lost/missing persons, search rescues, scene recreation and much more.

The main common denominator for all the programs is the prohibited usage of drones for random surveillance or for random fly overs during peaceful gatherings and first amendment demonstrations.