



CITY OF OAKLAND

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Police Commission

To: Oakland Police Commission
 From: Equipment Policy Ad Hoc Committee
 Date: 07 June 2020
 RE: Police Equipment Policy

Dear Colleagues on the Oakland Police Commission and Members of the Public,

RECOMMENDATION

The Equipment Policy Ad Hoc Committee (Committee) requests that the Oakland Police Commission (Commission) waive further policy development requirements, endorse the proposed draft ordinance regulating the acquisition and use of controlled equipment by the Oakland Police Department, and forward the draft ordinance to City Council with a request for immediate adoption.

BACKGROUND

In October 2019 Henry Gage III (then a member of the public) introduced a draft ordinance to regulate the Oakland Police Department's acquisition and use of militarized equipment. This draft ordinance was the result of many hours of diligent work by community advocates who want to ensure that the tools and tactics deployed by the police are subject to appropriate oversight, and reasonable checks and balances.

The Commission tabled discussion of this draft until November 2019. During a November 14, 2019 meeting the Commission created an ad hoc committee to manage the creation of this draft legislation, and to make recommendations to the Commission for further action. This ad hoc is comprised of Vice Chair Gage, Alternate Commissioner David Jordan, and Alternate Commissioner Chris Brown.

The Committee met with community advocates, elected officials, and police department staff to discuss the proposed ordinance, gather policy feedback, hear practical concerns about implementation, and review proposed amendments. Community advocates organized and produced a townhall on militarized policing, and recorded testimony from Oakland residents. These meetings guided the development of working drafts, which were first presented to the Police Commission for review and comment during the Commission's November 14, 2019 meeting. Discussion on updated drafts were continued on a number of occasions, and some feedback has been received from Commissioners and members of the public.

In response to the growing COVID-19 pandemic, and in recognition of the need for immediate resource realignment, in April 2020 the Committee recommended that work on the proposed ordinance be temporarily suspended. In a few short weeks, circumstances have changed dramatically. The Oakland Police Department, supported by a host of mutual aid partners, has been video recorded using teargas, armored vehicles, riot equipment, and flashbangs against non-violent demonstrators. The Committee has deemed that the need for immediate regulation requires that this ordinance be submitted for consideration by the Commission.

LEGISLATIVE SUMMARY

This legislation is being offered to regulate the Oakland Police Department ability to acquire and use certain categories of equipment. The structure created by this legislation models the Oakland Surveillance Ordinance in terms of workflow and it models California Assembly Bill 3131, a prior attempt to establish statewide requirements for the regulation of military equipment,¹ in terms of subject matter.

The primary concepts of the proposed Ordinance are as follows:

1. Controlled Equipment Use Policies and Controlled Equipment Impact Reports must be reviewed and adopted before the use of Controlled Equipment may be authorized.
2. Requires the Police Department to submit Controlled Equipment Use Policies and Controlled Equipment Impact Reports to the Police Commission for review and recommendation.
3. Requires the Police Commission to review submissions at a public hearing and determine whether such submissions warrant a recommendation to Council for adoption or rejection.
4. Requires the City Council to ratify or reverse the Police Commission's recommendations following the Commission's review of Controlled Equipment Use Policies.
5. Requires the Police Department to submit an annual report describing the use of authorized Controlled Equipment during the year prior.
6. Requires the Police Commission to review the annual Controlled Equipment report, determine whether covered equipment has complied with the standards for approval, and recommend renewal or modification of Use Policies, or the revocation of authorization for use.
7. Requires the City Council to ratify or reverse the Police Commission's recommendations following the Commission's review of the Controlled Equipment annual report.

ANALYSIS

The acquisition and use of military equipment adversely affects the public's safety and welfare, and creates severe and continuing risks to civil rights, civil liberties, and the physical and psychological well-being of the public. Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public's welfare, safety, civil rights, and civil liberties before certain categories of equipment are funded, acquired, or used.

In his 2016 book, To Protect and Serve, former Seattle Police Chief Norm Stamper notes that:

“Although there is a time and a place for military-like tactics, weaponry, and equipment, it's indisputable that the nation's police have often misused and abused the ‘military approach.’ In many jurisdictions there seems to be a ‘boys with toys’ mentality; if you have these ‘toys’ on hand, you want to use them, ‘play’ with them. And where personal and organizational discipline is lacking, people get hurt, cops and citizens alike.”²

The Oakland Police Commission is the institution best suited to ensure that the Police Department's acquisition and use of military equipment is subject to close oversight. By adopting the proposed ordinance, the City of Oakland can create a procedure to determine the necessity and use of equipment that, if misused or abused, will likely cause irreparable harm.

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¹ This bill passed the Legislature, but was vetoed by then-Governor Jerry Brown

² Norm Stamper, To Protect and Serve: How to Fix America's Police 83, (2016)

CONCLUSION

For questions regarding this report, please email Vice Chair Henry Gage, at:

hgage@oaklandcommission.org.

Sincerely,

Henry Gage III
Vice Chair, Oakland Police Commission

Oakland Police Commission
11 June 2020
Item: _____