

Military Equipment

709.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

709.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The Berkeley City Council.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

709.2 POLICY

It is the policy of the Berkeley Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

709.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Berkeley Police Department (Government Code § 7071).
- (e) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

709.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

- M4 rifle/Patrol Rifle
- Penn Arms 40MM Single Launcher
- Milkor LTL Multi-Launcher
- FN 303 Launcher & FN Pava Impact Projectile
- Oleoresin Capsicum Spray
- Chlorobenzylidene Malononitrile and Oleoresin capsicum
- Remington 700 Rifle
- ReconRobotics Recon Scout XT Robots
- Andros Remotec HD-1 Hazardous Duty Robot
- Light/Sound Diversionary Device
- Long Range Acoustic Device
- Mobile Command Vehicle
- Barret Model 99

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

709.4.1 BERKELEY POLICE DEPARTMENT'S INVENTORY

Rifles and Associated Ammunitions

Rifle:

M4 Rifle (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Colt M-4 patterned rifle, which fires the .223 Remington cartridge

Quantity: The Berkeley Department currently owns and maintains 96 rifles

Capabilities: The M4 pattern rifle is used only in situations when a potential life-threatening situation exists. While a pistol is the common firearm used by police in these dangerous situations, the M4 patterned rifle has numerous advantages over it. The ability to shoulder the rifle, coupled with the rifle's lengthened barrel and ammunition, result in higher accuracy and lessens the chance of officers missing the intended target. Additionally, due to the design of the rifle's bullet, the round is less likely to over penetrate commercial and residential walls should the officer miss the intended target. The rifle is also easier to use compared to a pistol because of the bullet's low recoil. Finally, as the rifle can be adjusted and customized, it can be configured to accommodate officers of any stature (hand size, strength, etc.).

Lifespan: Due to the rifle's ability to be maintained by department armorers, these rifles have a relatively long-life span if properly maintained. However, the design has changed little in the last 60 years and we can expect new variations and designs to become the new industry standard in the coming years.

Manufacturer's Description: This specially designed law enforcement weapon system features many of the combat proven advantages of the military Colt M4. With the 4-position buttstock fully retracted, the Colt Law Enforcement Carbine is less than 32in length and weighs only 6.9 lb - ideal for tactical deployment and traditional patrol.

PURPOSE and AUTHORIZED USE:

Purpose: The M4 patterned rifle and associated ammunition is intended as a means to safely stop a lethal threat. While a pistol is the firearm that all officers are minimally equipped with, the rifle is an ancillary firearm for situations where increased distance and accuracy are needed to safely resolve the situation.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Initial Cost: Exact costs unknown. Rifle prices, like other firearms, will range depending on current market demand and availability. While M4 rifles purchased several years ago cost between \$1,000

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

and \$1,200 a piece, current rifles cost between \$1,400 and \$1,600. It should be expected that these prices will fluctuate and likely increase over time.

Annual cost: Cost of use for all firearms should be based on the ammunition used in training and on duty. This will fluctuate based on whether the rifle is issued to a patrol officer, a firearms instructor, or a Special Response Team member as each assignment has different training requirements.

Training costs: Every officer that is authorized to carry a rifle on duty must attend a 16-hour CA POST approved rifle instruction course before being authorized to carry the rifle on duty. This course may be administered by Berkeley Police Firearm Instructors or by other POST approved agencies. Tuition for the CA POST approved class is dependent on the hosting agency. If conducted in house the cost only includes the officer's hourly wage, range fee, and ammunition costs (all vary). Outside agencies charge between \$25 to \$500 depending on the range location and duration (some classes are 32-hours while POST only requires 16-hours.) Additionally, all officers issued a rifle receive specific 8-hour rifle training every two years by POST certified BPD firearm instructors.

Maintenance costs: Vary depending on use over time. Traditionally, various springs and pins need to be replaced every five years and may cost between \$3 and \$30 per rifle. Other parts such as the barrel and bolt need replaced around ten years and range between \$150 and \$300 per rifle.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, and Policy 349 Tactical Rifle Operator Program. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

Remington 700 Rifle (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Remington 700 rifle, which fires the .308 caliber ammunition.

Quantity: The Berkeley Department currently owns and maintains 6 rifles

Capabilities: The Remington 700 rifle, with the appropriate ammunition, training, and practice, is capable of consistent and highly accurate shooting out to a distance of approximately 500-yards.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

The Remington 700 is intended to be used in emergency situations where there is a high potential for violence, where the need exists to put distance between officers and a specific individual, such as an armed hostage situation.

Lifespan: The Remington 700 bolt-action rifles have an expected life span of 10-years if properly maintained.

Manufacturer's Description: 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.

PURPOSE and AUTHORIZED USE:

Purpose: This rifle is to be used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers. This rifle provides police with the benefit of adding distance to a volatile situation which can increase the safety for community members and officers. This rifle is an ancillary firearm for situations where increased distance and accuracy is needed to safely resolve the situation.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Initial Cost: The initial cost to purchase this rifle with its associated components is approximately \$10,000 dollars each. Their average life span is 10-years at which time it will likely need to be replaced.

Annual cost: If this rifle is not cared for or maintained well, then a potential financial adverse impact would be the premature purchasing of a replacement rifle or replacement parts. However, authorized and trained Berkeley Police armorers service and provide regular maintenance of the rifles. The cost of maintenance is staff time.

Training costs: The cost associated with training is the staff time, range fees, and cost of spent ammunition. SRT members train once a month and, on average, each member shoots approximately 50-rounds. Currently, there are only 4 members shooting at each training day. This equates to approximately 2,400 rounds of ammunition being fired per year. This does not include special training days or attendance to training schools/classes. A single box of 20-rounds costs approximately \$20-dollars or \$1 dollar per round.

Maintenance costs: Maintenance costs vary depending on use over time. Firing pins need to be replaced every 5 to 7 years. The maintenance cost associated with this rifle is minimal.

There are no costs associated with maintenance or storage of ammunition. All ammunition is stored in a climate-controlled room in the Berkeley Police Department.

LEGAL AND PROCEDURAL RULES:

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force, Policy 354-Precision Rifle. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

Barret Model 99 Rifle (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: The Barrett Model 99 rifle is a single shot bolt-action 50-caliber rifle

Quantity: The Berkeley Department currently owns and maintains 1 rifle.

Capabilities: This rifle is used only in situations where a potential life-threatening situation exists. The length of the rifle's barrel coupled with the ammunition result in precision accuracy. This rifle is capable of disabling any vehicle engine block because of the large caliber round.

Lifespan: This rifle has been in our possession for almost 15-years and we expect it to last for an additional 20 years or more considering how in-frequently it's used.

Manufacturer's Description: The Model 99 brings new levels of long-range precision shooting. Known as much for its dependability as its versatility, the Model 99 has unfailing accuracy you can rely on.

PURPOSE and AUTHORIZED USE:

Purpose: The Barrett rifle is a firearm that may be used to stop a vehicle which poses a lethal threat to the public, or to disable a vehicle which presents a threat to the safety of another person(s) by its continued use. There are vehicle disabling tools that may disable vehicles by slowly deflating the tires; however, even with tires deflated a vehicle has the ability to operate and remain a threat to the public. Furthermore, these tools must be hand deployed and, in most circumstances, require officers to expose themselves to deadly threats. The Barrett rifle creates the ability to effectively disable vehicles instantaneously from a distance away.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Initial Cost: The Barrett Model 99 50-caliber rifle has a retail cost of approximately \$12,500 dollars. The Department of Justice provided the Barrett rifle to the Berkeley Police Department on 04/04/2007. There was no initial cost related to BPD taking possession of it.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Annual cost: The annual cost of the equipment is minimal and includes ammunition expenditure, cleaning equipment, and possibly replacing the optics at some point in the future.

Training costs: The cost associated with training is the staff time, range fees, and cost of spent ammunition.

The costs associated with its proposed uses is in the expenditure of its ammunition. The ammunition has a retail cost of approximately \$6 dollars per bullet; \$60 for a box of 10 and \$600 for a case of 10 boxes, plus shipping and handling. We currently possess 100 rounds of BMG ammunition.

Maintenance costs: Maintenance costs vary depending on use over time and will vary. There are no costs associated with maintenance or storage of ammunition. All ammunition is stored in a climate-controlled room in the Berkeley Police Department.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, and Policy 354 Precision Rifle. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

RIFLE AMMUNITION:

.223 Remington ammunition: 55 grain FMJ (full metal jacket) for training purposes and 62 grain soft point for duty purposes. (Use in the Colt M4 Rifle)

(Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type:.223 Remington ammunition: 55 grain FMJ (full metal jacket)

.223 Remington ammunition 62 grain soft point for duty purposes

Quantity: Quantity of rifle ammunition fluctuates significantly depending on training attended, including the standard basic police academy, officer assignments, and yearly mandate training cycles. For example, most police academy recruits are required to bring approximately 1,000 rounds to the basic POST approved academy. Most academies have a 16-24-hour rifle training course. The training is required for all officers who are issued a rifle and mandates between 800 and 1,200 rounds. As such, the inventory at the Berkeley Police Department fluctuates significantly depending on how many officers are attending state mandated training and can range from 10,000

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

round (our current inventory) to less than 1,000 rounds (our anticipated inventory at the end of December after scheduled department training in November.)

Capabilities: The .223 Remington cartridge, depending on the weight of the bullet, 55 grain or 62 grain, travel at approximately 3,000 feet per second and 2,700 feet per second respectively. The round is highly regarded as having a high degree of consistency and accuracy, which is why it is the most common rifle round used in Law Enforcement around the world.

Lifespan: Like all ammunition, if kept cool and dry, ammunition lifespan can exceed ten years. Due to BPD's and State mandates on training, the majority of ammunition is cycled through within a year of purchase.

Product Description:

.223 Remington ammunition: 55 grain FMJ (full metal jacket)

Make sure you hit your target with the Winchester USA .223 Rem 55-Grain Full Metal Jacket Ammunition. The full metal jacket ammunition features a 55 grain weight and includes 200 rounds. The caliber is .223 Rem, and the ammunition is made in the USA.

.223 Remington ammunition 62 grain soft point

Federal TRU 223 ammo is custom made ammunition for the Urban Law Enforcement Officer in mind. It features a lead core Hi Shock Soft Point bullet which offers great stopping power and excellent penetration, a non corrosive primer and brand new never fired brass casing and nickel plated brass primer. This LE Tactical ammo can be reloaded up to 5 times for those shooters that reload their 223 ammo. Federal LE 223 Remington has a muzzle velocity of 3050 feet per second and a muzzle energy of 1281 ft lbs. This 223 Federal ammo is new production packaged in 20 round boxes and 200 rounds per case. Federal TRU ammunition is engineered using Mil-Quality specifications. Each Federal TRU cartridge is made using select mil-quality low flash powders that do not disrupt an officer's night vision. The TRU case and web are built using thicker brass, adding the extra strength needed for the high powered rifle. TRU primers are crimped for added holding ability. This virtually eliminates backed out primers that can lock-up your weapon. With TRU ammunition, potentially disastrous situations are greatly reduced. TRU bullets are specifically engineered ranging from fragmenting designs for tactical entry to deeper penetrating bullets for patrol.

PURPOSE and AUTHORIZED USE:

Purpose: This rifle ammunition is capable of incapacitating an individual from a distance and providing greater accuracy at a distance. This ammunition is used in the M4 rifle.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Initial Cost: Ammunition costs fluctuate with the costs of components (brass, primers, gunpowder, and bullets) and supply/demand. Current costs for .223 Remington range from \$0.50 to \$0.75 a round for training ammunition (55 grain) and \$1.25 to \$1.50 a round for duty ammunition (62 grain).

Annual cost: The annual cost of the equipment is minimal, and is dependent on the amount of training.

Training costs: The cost associated with training is the staff time, range fees, and cost of spent ammunition.

Maintenance costs: Maintenance costs vary depending on use over time and will vary. There are no costs associated with maintenance or storage of ammunition. All ammunition is stored in a climate-controlled room in the Berkeley Police Department.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, and Policy 349 Tactical Rifle Operator Program. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

Hornady .308-caliber ammunition (for the Remington 700 Rifle)

(Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Hornady .308-caliber ammunition

Quantity: The Berkeley Department currently possess approximately 1800 rounds of this ammunition.

Capabilities: This rifle ammunition is capable of incapacitating an individual or disabling an object in emergency situations where there is a high potential for violence, where the need exists to put distance between officers and a specific individual, such as an armed hostage situation. This ammunition is specifically designed for accuracy at distances of 500 yards.

Lifespan: Like all ammunition, if kept cool and dry, ammunition lifespan can exceed ten years. Due to BPD's and State mandates on training, the majority of ammunition is cycled through within a year of purchase.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Manufacturer's Description: Millions of successful hunts have proven the accuracy and deadly effect of the famous Hornady® InterLock®, SST®, InterBond® and CX™ bullets we load into Hornady® Custom™ rifle ammunition.

Every round of Hornady® Custom™ ammunition is hand inspected before packaging to ensure the highest levels of quality control. At Hornady,® we manufacture Custom™ ammunition to give shooters and hunters the advantage of handloaded accuracy in a factory load.

PURPOSE and AUTHORIZED USE:

Purpose: This rifle ammunition is capable of incapacitating an individual from a distance of 500 yards and providing greater accuracy at a distance. This ammunition is used in the Remington 700 rifle.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Initial Cost: The costs associated with its proposed uses is in the expenditure of its ammunition. The ammunition has a retail cost of approximately \$1 dollars per bullet; \$20 for a box of 20, plus shipping and handling. We currently possess 1800 rounds of BMG ammunition, \$1800.

Annual cost: The annual cost of the equipment is minimal, and is dependent on the amount of training.

Training costs: The cost associated with training is the staff time, range fees, and cost of spent ammunition.

Maintenance costs: Maintenance costs vary depending on use over time and will vary. There are no costs associated with maintenance or storage of ammunition. All ammunition is stored in a climate-controlled room in the Berkeley Police Department.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, and Policy 354 Precision Rifle. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

Summit Ammunition.50-caliber BNG rounds of ammunition (for the Barrett Model 99)

(Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Summit Ammunition.50-caliber BNG rounds of ammunition

Quantity: The Berkeley Department currently possess approximately 100 rounds of this ammunition.

Capabilities: This rifle ammunition is capable of disabling any vehicle engine block because of the large caliber round.

Lifespan: Like all ammunition, if kept cool and dry, ammunition lifespan can exceed ten years. Due to BPD's and State mandates on training, the majority of ammunition is cycled through within a year of purchase.

Manufacturer's Description: This is 50 Cal. BMG Summit Ammunition 700gr. M-2 Armor Piercing Ammo. Summit Ammunition has been manufacturing 50 Cal. BMG for over 10 years and they manufacture a premium quality product. They are a fully licensed and insured manufacturer. This ammo is loaded with NEW Winchester brass, New USGI powder and Pulled Lake City M-2 AP bullets.

PURPOSE and AUTHORIZED USE:

Purpose: This rifle ammunition is capable of disabling any vehicle engine block because of the large caliber round.

Authorized Uses: Used in the defense of life or great bodily injury to potential victims of violent crimes, general public, and officers.

FISCAL IMPACT:

Initial Cost:

Annual cost: The annual cost of the equipment is minimal.

Training costs: The cost associated with training is the staff time, range fees, and cost of spent ammunition.

Maintenance costs: Maintenance costs vary depending on use over time and will vary. There are no costs associated with maintenance or storage of ammunition. All ammunition is stored in a climate-controlled room in the Berkeley Police Department.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, and Policy 354 Precision Rifle. The use of this equipment shall comply with the authorizations and prohibitions set forth in Policy 300 – Use of Force. It is the policy of the BPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force including the provisions of Penal Code Section 13652.

TRAINING:

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification.

ROBOTS:

ReconRobotics Recon Scout XT (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: ReconRobotics Recon Scout XT

Quantity: The Berkeley Department currently owns and maintains 2.

Capabilities: The Recon Scout XT robot is designed to be able to crawl over a variety of terrain, clearing obstacles up to 2" (5 cm) tall. It could be thrown into hazardous situations, indoor and outdoor, and provide live audio and video feed back to the controller.

Lifespan: Both Recon Scout XT robots are over 10 years old and ReconRobotics have developed and manufactured more advanced robots. ReconRobotics have stopped manufacturing certain parts for the Recon Scout XT, so the lifespan is dependent on what parts need to be replaced.

Manufacturer's Description: The Recon Scout XT is just eight inches long and weighs just 1.3 lbs., making it extremely easy to carry and throw. Moreover, deploying the Recon Scout XT takes just 5 seconds, and using it requires no special training. Simply pull the activation pin and throw the device through a doorway or over a wall, or drop it down a vertical shaft using a tether. Using a single joystick on the operator control unit (OCU), a tactical team leader or warfighter can then direct the device to move through the environment and send back real-time video. Equipped with an infrared optical system that automatically turns on when the ambient light is low, the Recon Scout XT can transmit video up to 100 feet indoors and 300 feet outdoors, day or night. The Recon Scout XT may also be specified in any of three transmitting frequencies, allowing police and military personnel to operate up to three robots in the same environment at the same time.

PURPOSE and AUTHORIZED USE:

Purpose: The Recon Scout XT robot is intended to safely provide police officers valuable information during high-risk, rapid evolving situations via real-time audio and video footage. It can be driven a distance away from the OCU, creating space between the officer and potential danger, thus decreasing the likelihood of injury to those involved in the event, or even a violent encounter between police officers and a dangerous subject. This asset furthers our commitment to the sanctity of life by offering time and distance in critical incidents.

Authorized Uses: The Recon Scout XT robot may be deployed to help police officers safely view potentially dangerous environments before entering them.

FISCAL IMPACT:

Initial Cost: The initial cost for the Recon Scout XT robot was about \$12,500 per unit (2010 cost).

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Annual cost: There are no ongoing or annual costs associated with the use of the Recon Scout XT robot. Being that it is battery operated, there is a nominal cost associated with charging the Recon Scout XT robot's batteries, and the batteries of the OCU. The Recon Scout XT robot is fairly simple to operate, thus there is no cost associated with training officers in its use. There are no costs with transportation or storage of the Recon Scout XT robot. While there are newer models of this robot available, there does not appear to be any upgrades available for the Recon Scout XT. The Recon Scout XT robot has been damaged on occasion, and there are costs associated with repair. But generally, the Recon Scout XT robot is robust and does not need regular repair.

Training costs: The Recon Scout XT robot is user friendly and simple to operate. Training is conducted by Berkeley Police personnel familiar with the operations and procedures of the Recon Scout XT robot. The cost of training is staff time.

Maintenance costs: There are no annual or storage costs.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 708 Robot Cameras.

TRAINING:

Andros Remotec HD-1 Hazardous Duty Robot (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Andros Remotec HD-1 Hazardous Duty Robot

Quantity: The Berkeley Police Department Bomb Squad has one robot, the Remotec HD-1 robot.

Capabilities: Remotec HD-1 robot is used in situations where a potential life-threatening situation exists and is too hazardous for a bomb technician to approach in person. The Remotec HD-1 robot is also used to survey an area prior to a bomb technician approaching a scene to check for trip wires and ascertain a good approach path. The Remotec HD-1 robot has three cameras and audio monitoring that stream live video and audio back to the control module; however, it is unable to record and does not have any data storage capabilities. It has several attachment mounting options as well. The Remotec HD-1 robot also has the ability to carry a variety of tools. Some of the tools are:

- (a) A spike to break glass and access vehicles or homes with potential explosive devices inside
- (b) An X-ray mount in order to remotely X-ray suspected explosive devices.
- (c) Percussion actuated non-electric disruptors which are smooth barrels that are filled with water and fired at high speed with a blank shotgun round to open backpacks, suitcases, and packages from a distance
- (d) A hook with cutting blades that are used to cut backpack straps, ropes, etc.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

- (e) PAN rounds containing various fills, from sand to slugs, in order to open sturdier packages made from metal or other hard covers.
- (f) Electrical connections to connect explosives that can be detonated remotely and from a safe distance.

Lifespan: The Remotec HD-1 robot has an expected life span of 10 years. It is currently 13 years old and has begun exhibiting issues. The Remotec HD-1 robot weighs just over 200 lbs. and has been near multiple explosions over the years and crossed a variety of off-road terrain

Manufacturer's Description: The Remotec ANDROS fleet of hazardous duty unmanned vehicles is the preferred choice of first responders worldwide. The robust, mission-proven design of the ANDROS line keeps danger at a distance with:

- Simultaneous tool mounts for rapid response during dynamic missions (i.e. suits changing needs as the mission unfolds)
- A versatile array of two-way audio, video, advanced sensors, tools and controllers
- Easy maintainability for minimal downtime

Made in the USA and backed by world-class training and post-sale support, it's no wonder there are over 1,000 ANDROS robots deployed around the globe.

PURPOSE and AUTHORIZED USE:

Purpose: The Remotec HD-1 robot is used as a means to approach hazardous situations where a potentially lethal threat such as an explosive device exist. The Remotec HD-1 robot allows for the examination and manipulation of an object or potential explosive device without unnecessarily putting a bomb technician's life at risk.

Authorized Uses: Used to examine and possible destroy hazardous materials such as an explosive device.

FISCAL IMPACT:

Initial Cost: Procured in 2008 for \$214,496 including on-site training through a UASI Grant. (64,292-N.S.)

Annual cost: There is no annual cost. Maintenance of the Remotec HD-1 robot is conducted by Berkeley Police Bomb Technicians.

Training costs: Berkeley Police Bomb Technicians are trained during regular bomb squad training sessions and maintain their skills through training scenarios. The cost of training is limited to staff time.

Maintenance costs: Remotec offers occasional maintenance and upkeep workshops free of charge.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 708 Robot Cameras.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

TRAINING:

Less Lethal Launchers:

Penn Arms 40mm Single Launcher (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Penn Arms 40mm Single Launcher

Quantity: The Berkeley Department currently owns and maintains 20.

Capabilities: The Penn Arms single launcher is capable of firing a single projectile out to a maximum manufacturer recommended range of 45 meters. The Penn Arms 40mm projectiles are direct fire with a pliable "sponge" tip designed to mold to the body. The projectiles are about the size of a large egg. Upon impact, the projectile transfers kinetic energy to the body to gain pain compliance. Large muscle groups such as the upper legs or lower abdomen are approved target areas unless a higher level of force is justified. This level of force is considered to be similar to that of a baton strike.

Lifespan: The manufacturer expected lifespan is about 10 years depending on use and regular maintenance.

Manufacturer's Description: A 40mm compact single-shot break-open frame launcher with a rifled barrel and folding stock. Features include: Double-action trigger, trigger lock push button and hammer lock safeties.

PURPOSE and AUTHORIZED USE:

Purpose: The purpose of kinetic energy impact projectiles, commonly referred to as "less lethal" is to preserve life, minimize the use of force and allow time for de-escalation. Less lethal projectiles allow the user to maintain a safe distance from a subject who is armed and/or demonstrates the intent to be violent. The ability to maintain a safe distance – while still providing a level of control over the subject – allows officers to employ de-escalation techniques, request additional resources and develop a plan to safely resolve the situation with the least amount of risk.

Violent or armed confrontations are inherently dangerous to all those involved. Officers are required to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. An Officer's threat perception of a person who is in close proximity as opposed to a person who is at a distance of 20 yards is naturally different. A person in close proximity intent on violence has the ability to immediately utilize personal body weapons, a bludgeoning device or cutting instrument. The immediacy requires the Officer to react instantly and there is a greater potential that a higher level of force will be needed.

On the other hand, a person at a distance of 20 yards may not be perceived as having the immediate ability to violently attack the Officer. The person must first close the distance before

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

certain weapons can be utilized. This fact may allow the Officer time to decide the most appropriate course of action, such as the use of a "less lethal" projectile.

The projectiles are designed to provide a high level of accuracy which minimizes the risk of unwanted impacts. The ability to apply force from a distance reduces the potential for violent confrontation and aides in reducing the level of force needed to safely resolve a conflict.

Authorized Uses: The Penn Arms 40mm single launcher is designed to reduce the potential for a violent confrontation. Less lethal projectiles are less likely to result in serious bodily injury or death and can be used to de-escalate a potentially deadly situation.

FISCAL IMPACT:

Initial Cost: Less lethal prices, like other equipment, varies depending on market demand and availability. The most recent Penn Arms purchased by the department cost \$815.00 each.

Annual cost: Cost for Penn Arms single launcher use should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Training costs: Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house thus the cost only includes staff time, range fees, and projectile costs which all vary.

Maintenance costs: Maintenance costs vary depending on use. Generally, various springs and pins need to be replaced every 5 years which can cost \$3 to \$30.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows.

Milkor LTL Multi-launcher (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Milkor LTL Multi-launcher

Quantity: The Berkeley Department currently owns and maintains 2.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Capabilities: The Milkor LTL is capable of firing six 40mm projectiles before reloading is necessary. The Milkor LTL 40mm projectiles are direct fire with a pliable "sponge" tip designed to mold to the body. The projectiles are about the size of a large egg. Upon impact, the projectile transfers kinetic energy to the body to gain pain compliance. Large muscle groups such as the upper legs or lower abdomen are approved target areas unless a higher level of force is justified. This level of force is considered to be similar to that of a baton strike.

Lifespan: The manufacturer expected lifespan is about 10 to 15 years depending on use and regular maintenance.

Manufacturer's Description: Developed with our partner company, Abrams Airborne Manufacturing, The 40mm Multi-Shot Less-Lethal Tactical Launcher (LTL) was manufactured with the needs of the modern tactical team at the forefront. The launcher is capable of firing a wide variety of 40mm LTL ammo.

PURPOSE and AUTHORIZED USE:

Purpose: The purpose of kinetic energy impact projectiles, commonly referred to as "less lethal" is to preserve life, minimize the use of force and allow time for de-escalation attempts. Less lethal projectiles allow the user to maintain a safe distance from a subject who is armed and/or demonstrates the intent to be violent. The ability to maintain a safe distance – while still providing a level of control over the subject – allows officers to employ de-escalation techniques, request additional resources and develop a plan to safely resolve the situation with the least amount of risk.

Violent confrontations are inherently dangerous to all those involved. Officers are required to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. An Officer's threat perception of a person who is in close proximity as opposed to a person who is at a distance of 20 yards is naturally different. A person in close proximity intent on violence has the ability to immediately utilize personal body weapons, a bludgeoning device or cutting instrument. The immediacy requires the Officer to react instantly and there is a greater potential that a higher level of force will be needed.

On the other hand, a person at a distance of 20 yards may not be perceived as having the immediate ability to violently attack the Officer. The person must first close the distance before such weapons can be utilized. This may allow the Officer time to decide the most appropriate course of action, such as the use of a "less lethal" projectile.

The "less lethal" projectiles utilized by the Berkeley Police Department are generally considered discriminate versus indiscriminate uses of force. The projectiles are designed to provide a high level of accuracy which minimizes the risk of unwanted impacts. The ability to apply force from a distance reduces the potential for violent confrontation and aides in reducing the level of force needed to safely resolve a conflict.

Authorized Uses: The Milkor LTL multi-shot launcher is designed to reduce the potential for a violent confrontation. Less lethal projectiles are less likely to result in serious bodily injury or death and can be used to de-escalate a potentially deadly situation.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

FISCAL IMPACT:

Initial Cost: Less lethal prices, like other equipment, varies depending on market demand and availability. The most recent Penn Arms purchased by the department cost \$3950.00 each.

Annual cost: Cost for Penn Arms single launcher use should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Training costs: Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house thus the cost only includes staff time, range fees, and projectile costs which all vary.

Maintenance costs: Maintenance costs vary depending on use.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows.

FN 303 and FN Pava Impact Projectile (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: FN 303 and FN Pava Impact Projectile

Quantity: The Berkeley Department currently owns and maintains 8 FN 303 less lethal launchers.

Capabilities: The FN 303 is capable of firing 15 projectiles out to a maximum manufacturer recommended range of 50 meters. The FN 303 projectiles are direct fire and designed to fragment upon impact to prevent penetration injury. Upon impact, the projectile transfers kinetic energy to the body to gain pain compliance. Large muscle groups such as the upper legs or lower abdomen are approved target areas. This level of force is considered to be similar to that of a baton strike.

Lifespan: The manufacturer expected lifespan is about 10 years depending on use and regular maintenance.

Manufacturer's Description: The FN 303® Less Lethal Launcher is constructed from durable lightweight polymer with comfortable ergonomics and an easy to operate safety. The FN 303® Launcher is equipped with both flip-up iron sights and an integrated MIL-STD-1913 top mounting rail for optical or electronic sights or other accessories. The lightweight polymer

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

magazine holds 15 projectiles and offers a clear rear cover to allow the operator to instantly verify both the payload type and the number of projectiles remaining.

PURPOSE and AUTHORIZED USE:

Purpose: The purpose of kinetic energy impact projectiles, commonly referred to as "less lethal" is to preserve life, minimize the use of force and allow time for de-escalation attempts. Less lethal projectiles allow the user to maintain a safe distance from a subject who is armed and/or demonstrates the intent to be violent. The ability to maintain a safe distance – while still providing a level of control over the subject – allows officers to employ de-escalation techniques, request additional resources and develop a plan to safely resolve the situation with the least amount of risk.

Violent confrontations are inherently dangerous to all those involved. Officers are required to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. An Officer's threat perception of a person who is in close proximity as opposed to a person who is at a distance of 20 yards is naturally different. A person in close proximity intent on violence has the ability to immediately utilize personal body weapons, a bludgeoning device or cutting instrument. The immediacy requires the Officer to react instantly and there is a greater potential that a higher level of force will be needed.

On the other hand, a person at a distance of 20 yards may not be perceived as having the immediate ability to violently attack the Officer. The person must first close the distance before such weapons can be utilized. This may allow the Officer time to decide the most appropriate course of action, such as the use of a "less lethal" projectile.

The "less lethal" projectiles utilized by the Berkeley Police Department are generally considered discriminate versus indiscriminate uses of force. Discriminate projectiles are designed to provide a high level of accuracy which minimizes the risk of unwanted impacts. The ability to apply force from a distance reduces the potential for violent confrontation and aides in reducing the level of force needed to safely resolve a conflict.

Authorized Uses: The FN 303 is designed to reduce the potential for a violent confrontation. Less lethal projectiles are less likely to result in serious bodily injury or death and can be used to de-escalate a potentially deadly situation.

FISCAL IMPACT:

Initial Cost: Less lethal prices, like other equipment, varies depending on market demand and availability. The most recent FN 303s purchased by the department cost \$800.00 each.

Annual cost: Cost for FN 303 use should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Training costs: Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Firearm Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

handled in house thus the cost only includes the officer's hourly wage, range fees, and projectile costs which all vary.

Maintenance costs: Maintenance costs vary depending on use. Generally, O-rings need to be replaced every 3000 rounds and cost \$30 per kit.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows.

Light/sound Diversionary Devices:

CTS 7290 Diversionary Device (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: CTS 7290 Diversionary Device

Quantity: The Berkeley Department currently owns and maintains 50.

Capabilities: When a diversionary device is deployed they create a loud noise, heat and brilliant light and create an effective diversion. They can create psychological and physiological effects such as: hearing a loud noise beyond that of everyday living, seeing a short bright light, and feeling of a change in atmospheric pressure. These effects may disorient/confuse subjects for a short time giving tactical teams the ability to apprehend that subject without using a higher level of force.

Lifespan: The lifespan of the CTS 7290 Diversionary Device is 5 years.

Manufacturer's Description: The CTS 7290 is the standard for diversionary flash-bang devices. The 7290 produces a 165-180 db and 6-8 million candela of light output. The patented design of the 7290, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output.

Flash Bangs are used by special tactical units during hostage rescue and high-risk warrants. It is an ATF-controlled Class-C explosive device that emits a bright light and thunderous noise to distract potentially dangerous individuals.

PURPOSE and AUTHORIZED USE:

Purpose: The purpose of a diversionary device is to create a reactionary gap of a person by temporarily disorienting them. This gap gives tactical teams an opportunity to apprehend a suspect

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

while using the minimal amount of force possible. They can also be used to safely invoke a response or redirect the attention of subjects who are either feigning injury, ignoring police commands or are unresponsive while posing a threat to the public.

Authorized Uses: The use of a diversionary device is to create a diversion in order to facilitate entry and enable arrest. Circumstances justifying the use of a diversionary device may include, but not limited to barricaded subject or hostage situations and high-risk search warrants services.

FISCAL IMPACT:

Initial Cost: Diversionary Devices cost approximately \$45 per unit and are purchased through LC Action Police Supply. Purchases for these tools are made when inventory becomes low, based upon critical incident usage and Special Response Team trainings that incorporate live devices.

Annual cost: See below training cost.

Training costs: Only trained and qualified personnel are permitted to deploy diversionary devices. These trained Berkeley Police officers are typically members of the Berkeley Police Department Special Response Team who receive monthly training which includes training in the deployment of diversionary devices. The cost of training is staff time.

Maintenance costs: The majority of diversionary devices are stored inside of a room in the basement within the Police Department. There are no additional storage costs. There are no associated costs to transporting, maintenance, or upgrades.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 353 Diversionary Devices.

TRAINING:

Only trained and qualified personnel are permitted to deploy diversionary devices. These trained Berkeley Police officers are typically members of the Berkeley Police Department Special Response Team who receive monthly training which includes training in the deployment of diversionary devices.

Long Range Acoustic Device

The Long-Range Acoustic Device (LRAD)(Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: The Long Range Acoustic Device (LRAD)

Quantity: The Berkeley Department currently owns and maintains possesses 2 Long Range Acoustic Devices (LRAD) speakers. One is an LRAD 450XL and the other is an LRAD 100X.

Capabilities: Both of these speakers are able to focus sound in directional pattern allowing the user to make sound audible over distances much greater than conventional public address

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

speakers. The LRAD 450XL is the larger of the two and designed to either be used in a fixed location or mounted on a vehicle to make it portable. It has a usable range of approximately 1 mile. The LRAD 100X is smaller and more portable. It can be carried or mounted to a person's chest for mobility or mounted to a vehicle. Its range is approximately 1/3 of a mile. Both of these systems allow for clear long-range communication, they are also able to play recorded messages.

Lifespan: The lifespan for both LRADs is 25 years.

Manufacturer's Description: LRAD 100x In addition to being 20 – 30 decibels louder than bullhorns and vehicle-based P.A. systems, the LRAD 100X is also up to 6X louder and much more intelligible than other hailing devices of comparable size and weight. Live or recorded broadcasts from the portable LRAD 100X easily overcome engines, sirens and noisy crowds to ensure every message is heard and understood. The LRAD warning tone safely alerts attention to the voice messages that follow, establishes large standoff zones, and is the safer crowd control alternative to non-lethal and kinetic measures.

LRAD 450XL- The LRAD 450XL utilizes technology developed and patented* by Genasys Inc. to provide the audio output of larger acoustic hailers almost twice its size and weight, while delivering the same outstanding vocal clarity inherent in all LRAD systems. The LRAD 450XL broadcasts powerful warning tones to command attention to the highly intelligible voice messages that follow, enabling operators to change behavior and enhance response capabilities with safe, scalable escalation of force. Lightweight and designed for use on tripods or mounted on vessels, vehicles, and Remote Weapon Stations (RWS), the LRAD 450XL is a highly effective, long range communication system in use around the world for public safety, law enforcement, maritime and defense applications.

PURPOSE and AUTHORIZED USE:

Purpose: The LRADs are designed for clear long-range communication. The LRAD's ability to communicate over a long distance is far superior to any megaphone or Public Address (PA) system mounted to a police vehicle. Additionally, LRAD's may be used to:

- Communicate lifesaving information to residents during disasters
- Communicate to large crowds during parades, festivals, concerts and sporting events
- Establish safety zones and perimeters
- Control traffic congestion
- Conduct Special Response Team operations
- Broadcast a dispersal order
- Communicate during hostage and barricaded subject situations
- Announce and serve high risk warrants
- Communicate to protesters
- Communicate to persons threatening suicide who are in an inaccessible location

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

- Conduct search and rescue operations

The ability to communicate with the public in a large area increases the safety of all members of the public and law enforcement. It allows everyone in a given area to know what is being communicated, gives more situational awareness to everyone in a given area and allows people to know where to go or not to go.

Authorized Uses: The LRADs are used to communicate with the community during natural disasters, crowd management and control situations, or when other forms of communications are ineffective or inoperable to unequivocally communicate messages from Police or Fire and safely resolve uncertain situations where communicating with the public is paramount.

FISCAL IMPACT:

Initial Cost: The LRAD 450XL and the LRAD 100X were purchased in 2018. The total cost for both LRADs, rechargeable battery packs and accessories was \$49,999.

Annual cost: BPD has not incurred any additional cost to date for this equipment.

Training costs: Training is conducted by Berkeley Police personnel who are trained in the use and procedures of the LRAD. The cost to train is staff time.

Maintenance costs: costs for this equipment.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 707 Long Range Acoustic Device.

TRAINING:

Training is conducted by Berkeley Police personnel who are trained in the use and procedures of the LRAD.

Mobile Command Vehicle

Mobile Command Vehicle (MCV)(Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: MCV is a 2003 Freightliner MT55

Quantity: The Berkeley Department currently owns and maintains 1.

Capabilities: The MCV is a mobile office that provides shelter and may be used as a mobile command and communication center.

Lifespan: This vehicle is approximately 20 years old and is at the tail end of its serviceable lifespan. All emergency vehicles need to be completely dependable and vehicles of this age start

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

to lose dependability as old parts start to fail without warning. The modern versions of this type of vehicle are typically converted motorhomes.

Manufacturer's Description: The 22' Freightliner MT55 P1200 is the biggest stepvan option for your delivery fleet, offering maximum capacity, accessibility and maneuverability. Built with a powerful Cummins 6.7L 200HP Diesel Motor, this route truck has folding lower shelves to optimize your cargo space and rear sonar for safety.

PURPOSE and AUTHORIZED USE:

Purpose: This vehicle may be used as a mobile command post for any larger scaled events or as a communications center in the event the communications center in the Public Safety Building is inoperable. Some examples of large-scale events include Solano Stroll, Juneteenth, 4th of July, critical incidents or natural disasters.

Authorized Uses: This vehicle is used as a mobile command post for large scaled events.

FISCAL IMPACT:

Initial Cost: The initial cost of the MCV (2003 Freightliner MT55) was \$230,800.

Annual cost: There is no annual or ongoing cost associated with this vehicle. Maintenance of the vehicle is conducted by the City's Corporation Yard.

Training costs: Training is conducted in-house by Berkeley Police personnel who are trained in the operation of the vehicle. The training cost is staff time.

Maintenance costs: There are no storage costs and maintenance would be conducted by the City of Berkeley Corporation Yard.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 811 Mobile Command Vehicle.

TRAINING:

Training is conducted in-house by Berkeley Police personnel who are trained in the operation of the vehicle.

Chlorobenzylidene Malononitrile and Oleoresin Capsicum

Chlorobenzylidene Malononitrile (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Chlorobenzylidene malononitrile (CS)

Quantity: The Berkeley Department currently owns and maintains Inventory for CS canisters:

Qty 6 – 5230 CS Canisters

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Qty 24 – 6230 CS Canisters

Qty 20 – 5230B CS Baffled Canister (flameless)

Qty 17 – 5231 CS Tri-Phaser Canisters

Qty 21 – 4630 CS Muzzle Blast (used with 40 mm less lethal launcher)

Qty 4 – 4530 CS Impact Rounds (used with 40 mm less lethal launcher)

Qty 19 – 4330 CS Barricade Projectile Rounds (used with 40 mm less lethal launcher)

Capabilities: CS aerosols with microscopic particles which are potent sensory irritants becoming attached primarily to moist mucous membranes and moist skin. Common effects are: coughing, increased mucous secretion, difficulty breathing, skin reactions, and excessive salivation. The onset of symptoms typically occurs within 20 to 60 seconds, and if the exposed individual is placed in fresh air these effects generally cease in 10 to 30 minutes.

Lifespan: CS and OC canisters expire in approximately 5 years.

Manufacturer's Description: Unable to locate from the manufacture, provided by the subject matter experts. Chlorobenzylidene malononitrile (CS) is one of the most commonly used "tear gases" in the world. It can be liquid, gaseous, or solid substance intended to produce temporary discomfort through being vaporized or otherwise dispersed in the air. Law enforcement (LE) agencies have found this agent invaluable when faced with combative suspects, for crowd/riot control, and for alleviating barricaded subject situations. LE use it to help control individuals or groups without the need for a higher level of force. There are four different deployment methods of chemical agents (Aerosol - most commonly used by police departments, Fogging, Pyrotechnics, and blast expulsion). All methods of deployment can be affected by certain environmental and physical conditions (wind, rain, temperature, distance, and proximity to others). At standard daily temperatures and pressures, CS forms a white crystal with a low vapor pressure and poor solubility in water.

PURPOSE and AUTHORIZED USE:

Purpose: There are a variety of situations where peace officers may use chemical agents such as: self-defense, overcoming the resistance of a noncompliant individual, effecting an arrest, preventing escape, violent crowd or riot control, barricade or hostage situations and dealing with dangerous animals.

Authorized Uses: Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Chief of Police may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

FISCAL IMPACT:

Initial Cost: The cost for CS canisters ranges from \$20.00 to \$39.00 per unit.

Annual cost: See below cost of training.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Training costs: When purchased, each unit is given an expiration date which typically falls within a 2-3-year range. Every 2-3 years, new chemical agents are purchased to honor the expiration dates. The expired agents are then used during annual trainings thus minimizing the overall cost. Training is conducted by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer. The cost of training is staff time.

Maintenance costs: The majority of agents are stored inside of a marked chemical agent room within the Police Department, in the Special Response Team vehicle, or in the rescue Vehicle. There are no additional storage costs. There are no associated costs to transporting, maintenance, or upgrades.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Training is conducted by Peace Officer Standards and Training (POST) certified Berkeley Police chemical agent training officer.

Oleoresin Capsicum (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Oleoresin capsicum (OC)

Quantity: The Berkeley Department currently owns and maintains Inventory for OC canisters:

Inventory for OC canisters:

Qty 54 - 9440 OC Tear Ball

Qty 19 - 5440 OC Flameless

Qty 20 - 6340 OC Vaper

Capabilities: A person subjected to OC can expect heavy tearing due to a burning sensation, involuntary closing or blinking of the eyes, stinging skin sensation, redness of the skin, irritation of the nose, runny nose, salivation, cough, gagging sensation, and shortness of breath. A person may also experience anxiety and panic. A complete recovery usually takes place within 45-60 minutes depending on the level of exposure.

Both CS and OC canisters ca

Lifespan: CS and OC canisters expire in approximately 5 years.

Manufacturer's Description: Unable to locate from the manufacture, provided by BPD subject matter experts. Oleoresin capsicum (OC) will be referred to in the aerosol canister form. OC is the chemical agent that is most widely used amongst Law Enforcement (LE) and the general public.

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

OC has a pungent and irritating pepper odor. It is classified as an inflammatory agent. OC is mixed with several types of solutions which act as carriers.

PURPOSE and AUTHORIZED USE:

Purpose: There are a variety of situations where peace officers may use chemical agents such as: self-defense, overcoming the resistance of a noncompliant individual, effecting an arrest, preventing escape, violent crowd or riot control, barricade or hostage situations and dealing with dangerous animals.

Authorized Uses: Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Chief of Police may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

FISCAL IMPACT:

Initial Cost: The cost for OC canisters ranges from \$36.00 to \$44.00 per unit.

Annual cost: See below cost of training.

Training costs: When purchased, each unit is given an expiration date which typically falls within a 2-3-year range. Every 2-3 years, new chemical agents are purchased to honor the expiration dates. The expired agents are then used during annual trainings thus minimizing the overall cost. Training is conducted by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer. The cost of training is staff time.

Maintenance costs: The majority of agents are stored inside of a marked chemical agent room within the Police Department, in the Special Response Team vehicle, or in the rescue Vehicle. There are no additional storage costs. There are no associated costs to transporting, maintenance, or upgrades.

LEGAL AND PROCEDURAL RULES:

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Training is conducted by a Peace Officer Standards and Training (POST) certified Berkeley Police chemical agent training officer.

Oleoresin Capsicum Spray (Description, purpose/authorized use, fiscal impact, legal and procedural, and training)

Description (type of equipment, quantity, capabilities, lifespan, and product description from manufacture)

Type: Oleoresin capsicum (OC) spray

Quantity: The Berkeley Department currently owns and maintains Inventory for OC canisters:

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Capabilities: The larger First Defense MK-9 OC sprays are 13 ounces and are used in violent crowd situations. It has an effect range of 18-20 feet.

The use of the First Defense OC spray can render a dangerous and violent situation safe without using a higher level of force.

Lifespan: Aerosol products eventually lose pressure over time. The lifespan the MK-9 OC spray are dependent on how well the pressure in the can is maintained, but is recommended to be replaced after 5 years.

Manufacturer's Description: The MK-4 is an ideal size for patrol officers to wear on a duty belt and will deliver 11-12 short bursts of OC at an effective range of 10-12 feet(18-20 for the MK9). This 1.3/% MC OC aerosol product features a 360-degree stream deliver method which allows the aerosol projector to disperse OC from any angle while providing a target specific, strong concentrated stream for greater standoff.

PURPOSE and AUTHORIZED USE:

Purpose: There are a variety of situations where officers may use OC spray such as: self-defense, overcoming the resistance of a noncompliant individual, effecting an arrest, preventing escape, violent crowd or riot control, barricade or hostage situations and dealing with dangerous animals.

Authorized Uses: OC spray may be considered for use to bring under control an individual or groups of individuals who are engaging in or about to engage in violent behavior. OC spray should not, however, be used against individuals or group who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

FISCAL IMPACT:

Initial Cost: The MK-9 OC spray costs approx. \$60 per unit. The manufacturer is Defense Technology and the Berkeley Police Department purchase each unit from Galls Police Supply or LC Action Police Supply. Purchases for these tools are made when inventory gets low which is typically determined by how many new officers are sworn in, as well as if they are utilized in dangerous situations.

Annual cost: See below cost of training.

Training costs: Training is conducted in the police academy and in-house by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer. The cost of training is staff time.

Maintenance costs: All MK-9 OC sprays are stored in the basement. There are no additional storage costs or associated costs to transporting, maintain, or upgrade.

LEGAL AND PROCEDURAL RULES:

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

Authorized use must comply with state, federal laws, and Lexipol Policy 300 Use of Force, Policy 303 Control Devices, and Policy 428 First Amendment Assembly.

TRAINING:

Training is conducted by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer.

709.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

709.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

709.6.1 TEMPORARY USE IN EXIGENT CIRCUMSTANCES

The Berkeley Police Department may borrow and/or temporarily use Controlled Equipment in Exigent Circumstances without following the requirements in BMC 2.100.040, however the Department must take the following actions:

- (a) Provide written notice of the acquisitions or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state, or federal law

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

- (b) If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed Controlled Equipment Impact Report and Controlled Equipment Use Policy, as applicable, to the City Council within 90 days following the borrowing, acquisition or temporary use, and received approval, as applicable from the City Council pursuant to BMC 2.100.040
- (c) Include the Controlled Equipment in the Department's next annual Controlled Equipment Report.

709.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

709.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

709.9 MILITARY EQUIPMENT QUESTIONS

Any member of the public may direct their questions regarding this policy and ordinance to a Sergeant in the Professional Standards Bureau at 510-981-5734 or 510-981-5974. Concerns may also be directed to police@cityofberkeley.info. Questions will be answered in a timely manner by a member of the Berkeley Police Department.

709.9.1 MILITARY EQUIPMENT CONCERNS

Any member of the public may direct their concerns regarding this policy and any of the military equipment to Internal Affairs Bureau at 510-981-5706.

709.10 ASSOCIATED EQUIPMENT USE POLICIES

The below links will direct to the respective use policies:

300-Use of Force

303-Control Devices and Techniques

349-Tactical Rifle Operator Program

353-Flash/Sound Diversionary Devices

Berkeley Police Department

Law Enforcement Services Manual

Military Equipment

354-Precision Rifle Operator Program

428-First Amendment Assemblies

707-Long Range Acoustical Device (LRAD)

708-Robot Cameras

811-Mobile Communications Vehicle (MCV)

709.11 COMPLIANCE

The Department's Audit and Inspection Sergeant will ensure that the Department members comply with this policy. The Audit and Inspection Sergeant will conduct an annual audit with the assistance from members of the Processional Standards Bureau. Any violations will be referred to the Internal Affairs Bureau and handled in accordance with General Order P-26 (Personnel Compliant Procedures). All instances of non-compliance will be reported to the City Council via the annual military equipment report.

To: Berkeley Police Accountability Board Subcommittee on Military Equipment
From: John Lindsay-Poland, American Friends Service Committee
Re: Proposals for amended / additional language to proposed Impact Statement and Policy 709 on Military and Controlled Equipment
May 22, 2022

Contents

- 1. Use of CS gas and OC canisters (tear gas)**
- 2. Use of Impact projectiles and launchers**
- 3. Applying Berkeley's policies to outside law enforcement agencies**
- 4. Deployments of assault rifles and sniper rifles**
- 5. Use of .50 Caliber Barrett rifle**

1. Use of CS gas and OC canisters (tear gas)

- Reference: Impact Statement pp 27-32.
- Reference: Policy 709, p. 24-27
- The proposed Impact Statement would authorize the use of CS gas and OC canisters (p. 29) for “crowd control” and “crowd dispersal”.
- Policy 709 also would authorize the use of CS gas (p. 25) and OC canisters (p. 27) for “crowd control” and “crowd dispersal”. The proposal refers to OC canisters (not the handheld pepper spray carried on individual officers’ belts) as “tear gas” (p. 27).
- Both the proposed Impact Statement and Policy 709 refer to Policy 303 (“Control Devices and Techniques”). Policy 303 also explicitly authorizes CS gas for “crowd control” and “crowd dispersal” (at 303.6).
- Neither proposal nor Policy 303 references the language of AB 48 ([Penal Code § 13652](#)).
- Neither proposal nor Policy 303 reference Berkeley’s prohibition on the use of “tear gas” by BPD or any “outside department or agency called to respond to mutual aid in Berkeley”, enacted in June 2020 by the City Council. (see p. 5 of June 9, 2020 Council minutes)

Berkeley’s prohibition on the use of tear gas and other chemical agents is a City Council action of June 9, 2020, which reads in the City Council minutes as follows:

Action: M/S/Carried (Davila/Harrison) to establish an official City of Berkeley policy 1) prohibiting the use of tear gas by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, and 2) prohibiting the use of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition. Vote: All Ayes.

<https://records.cityofberkeley.info/PublicAccess/paFiles/cqFiles/index.html> enter: 6/09/2020
CLK: Minutes; City Council; SPECIAL

According to BPD's military equipment use report, within the last year the Department honored the tear gas ban and did not deploy either OC canisters or CS gas at all.

Proposal on Tear Gas

Impact statement, p. 29: Replace the section on "Use" for CS gas and OC canisters ((1)E), with the statement:

"Tear gas, including CS gas and OC canisters, is not authorized for use by the Berkeley Police Department or by any outside department or agency called to respond to mutual aid in Berkeley. Berkeley Police Department will phase out its possession of CS gas and OC canisters within three months."

Policy 709, CS gas, p. 25: Replace the section on "Purpose and Authorized Uses" for CS gas, with the statement:

"CS gas is not authorized for use by the Berkeley Police Department or by any outside department or agency called to respond to mutual aid in Berkeley. Berkeley Police Department will phase out its possession of CS gas within three months."

Policy 709, OC canisters, p. 27: Replace the section on "Purpose and Authorized Uses" for OC canisters, with the statement:

"OC canisters are not authorized for use by the Berkeley Police Department or by any outside department or agency called to respond to mutual aid in Berkeley. Berkeley Police Department will phase out its possession of OC canisters within three months."

2. Use of Impact projectiles and launchers

- Penn Arms 40mm Single Launcher (Impact Statement, pp. 8-13; Policy 709, pp. 15-16)
- Milkor LTL Multi-Launcher (Impact statement, pp. 13-18; Policy 709, pp. 16-18)
- FN 303 Launcher and FN Pava Impact Projectile (Impact Statement, pp. 19-24; Policy 709 pp. 18-20)

References: AB 48 (Penal Code § 13652)

AB 48 significant limits the legal authorized use of kinetic impact projectiles – "sponge rounds", "baton rounds", and other "less lethal" impact rounds – for crowd control. Use is only permitted "to defend against a threat to life or serious bodily injury" and only after officers have attempted objectively reasonable de-escalation techniques, given multiple audible warnings of use, given opportunity for dispersal. Officers may not fire indiscriminately into a crowd but must distinguish between those using violence and those who are not. The statute also states that law enforcement shall not use these weapons solely to enforce a directive or curfew or in response to a verbal threat; that prohibition arguably applies regardless of whether there is a crowd.

As with chemical agents, although the proposed Impact Statement, Policy 709, and Policy 303 don't directly reference crowd control as an authorized use, neither do they incorporate the language of AB 48 or its limitations on the use of less lethal impact munitions.

Proposal on impact projectiles

The Impact Statement and Policy 709 will incorporate the language of Penal Code § 13652, by referencing that language directly. These changes should also be incorporated into Policy 303.

Impact statement: In the impact statement for each of the three types of impact projectile equipment:

Penn Arms 40mm launcher, p. 9

Milkor LTL Multi-Launcher, p. 14

FN 303 Launcher and FN Pava Impact Projectile, p. 19

In the sections on “Use”, replace the text or add the following (edited from the statute to remove reference to chemical agents, already governed by Berkeley’s prohibition):

Kinetic energy projectiles agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control 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, and only in accordance with all of the following requirements:

1. De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
2. Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles 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.
3. Persons are given an objectively reasonable opportunity to disperse and leave the scene.
4. An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
5. Kinetic energy projectiles are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
6. Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles on bystanders, medical personnel, journalists, or other unintended targets.
7. An objectively reasonable effort has been made to extract individuals in distress.
8. Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
9. Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
10. Kinetic energy projectiles shall not be used by any law enforcement agency 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.

Policy 709: In Policy 709, for each of the three types of impact projectile equipment:

Penn Arms 40mm launcher, p. 16

Milkor LTL Multi-Launcher, p. 17

FN 303 Launcher and FN Pava Impact Projectile, p. 19

In the sections on “Authorized Uses”, replace the text or add the following (edited from the statute to remove reference to chemical agents, already governed by Berkeley’s prohibition):

Kinetic energy projectiles agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control 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, and only in accordance with all of the following requirements:

11. De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
12. Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles 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.
13. Persons are given an objectively reasonable opportunity to disperse and leave the scene.
14. An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
15. Kinetic energy projectiles are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
16. Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles on bystanders, medical personnel, journalists, or other unintended targets.
17. An objectively reasonable effort has been made to extract individuals in distress.
18. Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
19. Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
20. Kinetic energy projectiles shall not be used by any law enforcement agency solely due to any of the following:
 - d. A violation of an imposed curfew.
 - e. A verbal threat.
 - f. Noncompliance with a law enforcement directive.

3. Berkeley's policies must apply to outside agencies invited into Berkeley.

Many law enforcement agencies have proposed – and governing bodies have adopted – policies to ensure local policies govern the use of any military equipment in their communities. The proposed policy of Long Beach PD on says:

COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES

Military equipment used by any employee of this Department shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are providing mutual aid to this Department shall comply with the policies of the LBPB.

We recommend BPD adopt the Long Beach language for its policy.

Hayward PD, Alameda PD, Emeryville PD, El Cerrito PD, Santa Cruz PD, Santa Clara PD, and Fresno County Sheriff's Office, among others, have proposed a similar Lexipol-approved policy: "Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy."

4. Use of assault rifles (patrol and sniper rifles)

References:

Colt M4 (patrol rifle): Impact statement, pp. 3-8; Policy 709, pp. 3-4

Remington 700 (sniper rifle): Impact statement, pp. 32-35; Policy 709, pp. 4-6

We recognize that Department officers view rifles as a means to protect life. At the same time, the display of assault rifles has a chilling and fear-inducing effect on community members. That is why authorized uses – deployments or displays – of rifles should clearly and carefully defined.

Existing and proposed BPD policies for *deploying* assault rifles are general and as a whole, have much more specificity and clarity on the authorization to *fire* the weapon than for authorization to *deploy* or *display* the weapon. Guidelines for *firing* the weapon are extensively detailed in Policy 300. However, AB 481 and – to a lesser extent – Berkeley’s controlled equipment ordinance require policies for *use* of equipment more broadly than for *use of force*.

Current policy for deployment of assault rifles is contained in Policies 349 (patrol rifles) and 354 (sniper rifles), as well as in Policy 300 on Use of Force.

Policy 349 focuses most attention on selection of rifle operators and the rifles themselves. Policy is that assault rifles are to “exercise expeditious control over critical incidents or potentially violent situations.” (Section 349.2, Policy Manual p. 235) The guidance on authorized use is: “In light of known or potential risks, a TRO should deploy the firearm which best meets the needs of the police response, and in which he/she has the greatest accuracy and operational confidence.” (Section 349.6, Policy Manual p. 236).

We propose that this policy describe prohibited uses that are not appropriate, as well as considerations to take into account for pre-planned operations (typically by the SRT). For this, we reference the Oakland PD patrol rifle policy and armored vehicles policy.

Proposed language on uses of patrol rifles:

- In Policy 709, p. 3, add the following to the “Authorized Uses” section:
- In Impact statement, p. 5 (M4 patrol rifle) and p. 34 (Remington 700 sniper rifle), add the following to the “Uses” sections:

“Commanders shall only authorize the deployment of patrol rifles or sniper rifles when the specific capabilities of the rifles are necessary to bring an incident to a safe conclusion. Any authorized departure of a rifle from its place of storage, excluding movement of the rifles at the start or end of a shift, shall be considered a deployment.

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
- Display during routine patrol operations

Pre-planned deployments of patrol rifles and sniper rifles

Commanders shall determine whether to deploy patrol rifles based on credible intelligence, and consider the following variables when determining whether to deploy patrol rifle and sniper rifles:

- Whether the use of an alternative operation location would diminish the need to use a patrol rifle or sniper rifle.
- Whether the subject is beyond the effective range of Departmental pistols or shotguns.
- Whether the subject is known to wear or is suspected of wearing body armor.
- 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 the presence of assault rifles 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.
- Whether the subject is known to possess or is suspected of possessing a deadly weapon or firearm (including caliber and type)
- Potential skills of persons present to use firearms or other weapons, including experience in law enforcement, military, or other armed groups.
- 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.”

5. .50 Caliber Barrett rifle

(pp. 54-57 of Impact Statement; pp. 6-7 of Policy 709): BPD should get rid of this weapon from its inventory, as it is not appropriate for civilian law enforcement. Barrett .50 caliber rifles are very large sniper rifles that typically require a tripod or other mounting device. BPD recognizes that it is “infrequently” used. BPD says it is for “disabling an engine block.” BPD acquired this weapon from Dept of Justice 15 years ago, and many other departments of BPD’s size and larger do not have this weapon. Last week Supervisor Nate Miley spoke out against the Alameda County Sheriff’s Office possession of this type of weapon. The Berkeley use report says this weapon was not deployed at all in the last year. The staff time required to train on this weapon is not a good use of City resources.

Proposal on .50 caliber Barrett rifle

Policy 709, Barrett rifle, p. 6: Replace the section on “Authorized Uses” with the statement:

“The Barrett rifle is not authorized for use by the Berkeley Police Department or by any outside department or agency called to respond to mutual aid in Berkeley. Berkeley Police Department will dispose of its Barrett rifle within three months.”

Impact statement, Barrett rifle, p. 55: Replace the section on “Use” ((1)E), with the statement:
“The Barrett rifle is not authorized for use by the Berkeley Police Department or by any outside department or agency called to respond to mutual aid in Berkeley. Berkeley Police Department will dispose of its Barrett rifle within three months.”

