

**REVISED LEGISLATIVE DIGEST**  
*(Amended in Committee – May 27, 2021)*

[Administrative Code - Restrictions on Police Use of Specific Types of Force as a Crowd-Control Tactic ~~During Lawful Assemblies and in Certain Other Circumstances~~]

**Ordinance amending the Administrative Code to prohibit the Police Department from ~~deploying, using, deploying, launching, or firing of~~ extended impact weapons, kinetic impact projectiles, chemical agents, disorientation devices, and military grade equipment as a crowd-control tactic, except in certain during lawful assemblies in other circumstances; and requiring the Police Department to prepare public reports following any permitted use of such equipment or devices. (~~curfew violations, verbal threats directed at an officer, noncompliance with an officer's order~~).**

Existing Law

Currently, City law does not specifically address the San Francisco Police Department's ("SFPD") use of weapons or devices for crowd-control purposes.

Amendments to Current Law

On May 27, 2021, the Board of Supervisors' Public Safety and Neighborhood Services Committee amended the legislation to:

- 1) Delete the reference to lawful assembly and broaden the breath of the ordinance to prohibit all situations where SFPD will use extended impact weapons, kinetic impact projectiles, chemical agents, disorientation devices, and military grade equipment as a crowd-control tactic, except in limited circumstances.
- 2) Prohibit SFPD from using tear gas, CS gas or Extended Range Impact Weapons with Kinetic Impact Projectiles, excluding bean bag rounds as a crowd control tactic.
- 3) Permissible Chemical Agents are Oleoresin Capsicum Spray (commonly known as "OC Spray"), pepper spray, and mace.
- 4) Permissible use of Extended Range Impact Weapons is with bean bag rounds only.
- 3) Allow SFPD to use permissible Chemical Agents and Extended Range Impact Weapons with bean bag rounds only, as a crowd-control tactic in the following circumstances:

- Before using any permissible Chemical Agents or Extended Range Impact Weapons, an officer must determine that lower levels of force are not feasible in accordance the Department's Use of Force Policy, as that policy may be amended from time to time;
  - Before using any permissible Chemical Agents or Extended Range Impact Weapons, an officer must determine that there is an immediate threat of death or serious bodily injury to one or more persons and that the use of Chemical Agents or Extended Range Impact Weapons with bean bags rounds are necessary to restore safety;
  - Officers must ensure that the use of permissible Chemical Agents and Extended Range Impact Weapons complies with SFPD's Use of Force Policy, as that policy may be amended from time to time, including but not limited to de-escalation and time-and-distance tactics, and applicable mandatory first aid and medical assessment requirements; and
  - Officers must make reasonable efforts to target permissible Chemical Agents and Extended Range Impact Weapons at individuals the officers have identified as being engaged in violent criminal conduct and target them only, and may not target permissible Chemical Agents or Extended Range Impact Weapons indiscriminately at people who are not engaged in violent criminal conduct; and
  - Officers may use Chemical Agents or Extended Range Impact Weapons during a Riot as defined by Cal. Penal Code 404 et. seq.
- 4) SFPD may use mine-resistant ambush protected vehicles, heavily armored military-style vehicles, or bearcat vehicles for rescue operations only. All other uses are prohibited.
- 5) SFPD shall make efforts to ensure any other jurisdictions providing mutual aid assistance or resources to assist SFPD responding to crowd-control situations, comply with the requirements of this legislation.
- 6) Require SFPD to provide a written report to the Police Commission within 10 days following any use of Chemical Agents or Extended Range Impact Weapons as a crowd-control tactic or during a Riot, as defined in Cal. Penal Code 404 et. seq.

#### Ordinance as Introduced

The proposed ordinance introduced on July 21, 2020, prohibited the Police Department from deploying or using, launching, or firing extended range impact weapons, kinetic impact projectiles, chemical agents, disorientation devices, or military grade equipment, as such terms are defined in the ordinance, either (1) during an assembly protected by the First Amendment under the United States Constitution, except in response to a Riot after officers

have provided a dispersal order; or (2) in response to a violation of a curfew, a verbal threat directed at an officer, or noncompliance with a law enforcement order or directive.

### Background Information

The Police Department's use of force is largely governed by Department General Order 5.01, Use of Force Policy, which was overhauled in 2016 and generally allows the use of certain weapons. In July 2020, the Police Commission amended portions of the Use of Force Policy but those amendments did not address the use of certain weapons. The Department General Order 8.03, Crowd Control, and Department General Order 8.10, Guidelines for First Amendment Activities, specifically address police officers' conduct and investigations during lawful assemblies, but these orders do not prohibit or regulate the use of certain weapons or military grade equipment during lawful assemblies.

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