PUBLIC SAFETY

MOTION

Adopted in 2021, Assembly Bills 481 and 48 govern the use of "military equipment" by local law enforcement agencies, including so-called "less lethal" equipment such as kinetic energy projectiles like 40mm launchers as well as the use of chemical agents such as tear gas and pepper balls.

The first section of Assembly Bill 481 succinctly outlines the weight of the responsibility governments have in the regulation of military equipment usage on civilians: "*The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.*"

Overwhelming footage of military equipment usage by the Los Angeles Police Department (LAPD) and its "mutual aid" partners over the last week, both through individual recordings and from news outlets across the world, have called into question whether such usage has conformed with applicable state law, including Penal Code § 13652(b), adopted through AB 48 (2021), which reads:

"Kinetic energy projectiles and chemical 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) Deescalation 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 chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
(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 or chemical agents 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 and chemical agents 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 and chemical agents 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 or chemical agents 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."

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Given that there are numerous and significant outstanding questions about whether the conduct of LAPD and its mutual aid partners has fallen short of state law requirements, and given the ongoing threat to the lives and safety of Angelenos, not to mention the millions of dollars of liability the City may accrue if such conduct continues, the City should immediately set strict limitations on the deployment of such weapons. State law sets a floor for the requirements applied to the usage of military equipment, and as stated by Government Code § 7075, adopted by AB481 (2021): "Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies."

I THEREFORE MOVE that the City Council request the City Attorney, in consultation with the Chief Legislative Analyst, the City Administrative Officer, and the Los Angeles Police Department, to prepare and present an ordinance that:

- Prohibits the deployment or use by any City employee of kinetic energy projectiles or chemical agents, including but not limited to any other crowd-control weapons identified in California Government Code § 7070(c)(12) through (c)(14), **except** in response to an individual—not a crowd— that presents an *imminent threat of death or serious bodily injury*, only when no safer, feasible alternative exists, that the device is directed exclusively at that individual, and all requirements of Penal Code § 13652 are met;
- Requires that, even under this narrow exception, officers give clear audible warnings in the predominant languages present, provide a viable egress route, deploy only one device per targeted individual, and refrain from targeting the head, neck, spine, or pelvis, and all other safeguards enumerated in Penal Code § 13652(b);
- Establishes that any acquisition of crowd-control weapons or munitions requires Council approval, and that stockpile limits of such weapons and munitions can be set at any time by Council resolution– the excess of which must be destroyed or transferred out of the City;
- Establishes a private right of action granting any person injured by a violation the greater of actual damages or ten-thousand dollars ($10,000) for each distinct deployment or use, plus reasonable attorney's fees and costs;
- Mandates that the LAPD publicly post, within twenty-four (24) hours, location-specific data on every deployment and use covered by this ordinance and include compliance metrics in its annual "military-equipment" report required by AB 481;
- Directs the Board of Police Commissioners to adopt any additional implementing rules within sixty (60) days of the ordinance's effective date;
- Classifies any violation of the ordinance as serious misconduct subject to discipline up to and including termination;
- Requires that any law-enforcement agency providing mutual aid within the City shall, as a precondition of deployment, agree in writing to abide by all provisions of this ordinance and any implementing rules; in the absence of such written agreement, the Los Angeles Police Department shall neither request nor accept mutual-aid assistance involving personnel or equipment subject to these prohibitions; The LAPD shall incorporate this requirement into all existing and future mutual-aid agreements within 15 days;

PRESENTED BY:

HUGO SOTO-MARTÍNEZ
Councilmember, 13th District

SECONDED BY:

ORIGINAL