



Legislation Text

File #: 1440-2022, **Version:** 1

This ordinance establishes new Columbus City Codes Chapter 1913 - Restrictions on the Deployment and Use of Equipment and Use of Force by Police.

Historically, federal programs such as the 1033 Program have supported the transfer of military equipment to local law enforcement agencies. Such partnerships have undergirded a shift among police forces toward using more military-style equipment and approaches over time. However, this militarization is inconsistent with local law enforcement's mission to protect and serve because militarization undermines public trust and creates barriers to the resident-officer connections that are necessary for law enforcement to uphold the public's safety.

Demilitarization is a tool for fostering trust and is complementary to other strategies, such as the civilian police review board and the use of body-worn cameras, which the City of Columbus has implemented. This ordinance builds upon 1500-2020, the first piece of demilitarization legislation adopted in the summer of 2020, which banned outright certain equipment that has no suitable use by Columbus police officers, mostly notably riot batons and camouflage uniforms. In contrast, this ordinance focuses on limiting, rather than banning, the use of certain equipment not addressed under the previous legislation.

The formulation of this ordinance was guided by significant resident feedback about the impact of the use of certain equipment, as well as recommendations from an Obama Administration working group made up of community groups, law enforcement, and legal and civil rights experts. Further, it codifies the permanent injunction from Judge Algenon Marbley relating to the summer 2020 protests, the contents of which are closely linked to the overall intent of this ordinance. Resident feedback has underscored the fact that the public's trust in law enforcement is closely linked to the tactics and equipment they use, both in First Amendment demonstrations and in neighborhoods across Columbus every day.

Emergency Designation: Emergency legislation is requested so that the Division of Police may continue daily operations without further interruption.

To establish Chapter 1913, Restrictions on the Deployment and Use of Equipment and Use of Force by Police in Columbus City Codes; to codify the permanent injunction issued prohibiting the use of control agents on nonviolent protestors and to curtail the use of force on nonviolent protestors; to require the report of all uses of force from the previous year to City Council; and to declare an emergency.

WHEREAS, federal programs such as the 1033 Program have supported the transfer of military equipment to local law enforcement agencies and have encouraged the militarization of police forces over time; and

WHEREAS, this militarization of police conflicts with the mission to protect and serve, undermines public trust, and creates barriers to the resident-officer connections that are necessary for law enforcement to support public safety; and

WHEREAS, feedback directly from Columbus residents has underscored the fact that the public's trust in law enforcement is closely linked to the tactics and equipment officers use, both in First Amendment demonstrations and in neighborhoods across Columbus every day; and

WHEREAS, demilitarization, through the elimination and restriction of military-style weapons and tactics, helps the Columbus Division of Police and its officers better embody the peacekeeping at the heart of every officer's role; and

WHEREAS an emergency exists in the usual daily operation of the Division of Police, Department of Public Safety, in that it is immediately necessary to establish restrictions on the deployment and use of equipment and use of force by police so that the Division of Police may continue daily operations without further interruption, thereby preserving the public peace, property, health, welfare, and safety; **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. There is hereby created in Columbus City Codes Chapter 1913 - Restrictions on the Deployment and Use of Equipment and Use of Force by Police, which reads as follows:

Chapter 1913 - Restrictions on the Deployment and Use of Equipment and Use of Force by Police

1913.01 - Definitions

As used in this chapter:

- (A) “Control agent” means a chemical compound that temporarily causes debilitating effects in humans by causing irritation to the eyes, mouth, throat, lungs, or skin. Control agent includes, but is not limited to, substances commonly known as tear gas, pepper spray, and mace.
- (B) “Freeway” has the same meaning as in C.C.C. Section 2101.15
- (C) “Patrol rifle” means any rifle that is an automatic or semi-automatic firearm under .50 caliber. This definition excludes the handguns and shotguns issued to sworn personnel and the rifles used by sworn personnel assigned to tactical units that are approved by the division of police to be used during the course of regularly assigned duties.
- (D) “Specialty impact and gas munitions device” means a firearm that is intended to deploy “non-lethal” or “less lethal” ammunition, such as, but not limited to, wooden baton rounds, rubber bullets, or sandbags, for crowd control purposes.
- (E) “Tactical unit” means a special operations unit such as, but not limited to, SWAT or Investigative-Tactical Unit.
- (F) “Tear gas” means a control agent whose defining component is chlorobenzylidene malononitrile (CS) or a chemically similar compound.

1913.02 - Control and deployment of equipment

The following equipment shall only be issued to and deployed by officers assigned to tactical units of the division of police:

- (A) Wheeled armored vehicles;
- (B) Wheeled tactical vehicles;
- (C) Explosives and pyrotechnics;
- (D) Any device for which the primary use is to launch projectiles containing control agents the design of which intends that multiple individuals be impacted by a single discharge.

1913.03 - Response to Non-Violent Protests; Use of Force and Deployment and Use of Equipment

- (A) In accordance with the Permanent Injunction issued by the Honorable Judge Algenon Marbley on December 29, 2021 in the United States District Court for the Southern District of Ohio in the matter of *Alsaada, et al. v. City of Columbus, et al.*, Case No. 2:20-cv-3431, the following rules apply:
- (1) Employees of the City, including the Division of Police, are restrained from using non-lethal force, including tear gas, pepper spray, flash-bang grenades, rubber bullets, wooden pellets, batons, body slams, pushing or pulling, or kettling, on nonviolent protestors to enforce dispersal orders, traffic laws such as clearing the streets or sidewalks, and/or misdemeanors, that were not committed with actual or imminently threatened physical harm or property destruction or with attempted or actual criminal trespass on private property or secured government buildings/facilities, areas, or structures.
 - (2) Employees of the City, including the Division of Police, may only enforce dispersal orders, traffic laws such as clearing the streets or sidewalks, and/or misdemeanors in a manner and under the circumstances described in division (A)(1) against nonviolent protesters, to the extent practicable, through citations or arrests, based on probable cause.
 - (3) Employees of the City, including the Division of Police, are prohibited from using the infliction of pain to punish or deter "nonviolent protestors" and are directed to avoid infliction of pain on any nonviolent protester when incidental to a use of force necessary to prevent or effectuate an arrest for crimes committed involving the actual or imminent threat of physical harm or property destruction or attempted or actual criminal trespass on private property or secured government buildings/facilities, areas, or structures, and/or when arresting, based on probable cause, an individual who allegedly committed such an offense. For purposes of this provision, reasonable incidental contact with individuals in connection with entering into or moving through a crowd to effect an arrest does not constitute the infliction of pain to punish or deter nonviolent protester action and does not violate division (A)(1).
 - (4) Individuals legitimately displaying "press," "media," "reporter," "paramedic," "medic," "legal observer," or similar words and/or symbols are permitted to be present in a position enabling them to record at protests and/or to intervene to assist individuals who appear to have been injured so long as their presence does not physically interfere with a lawful arrest, involve entering a closed or cordoned-off crime scene, or physically interfere with medical aid already being rendered by an officer or an EMT/Firefighter, and that all individuals, regardless of their occupation or nonviolent activity, are permitted to record at protests or whenever any police officer interacts with the public.
- (B) In accordance with the Permanent Injunction issued by the Honorable Judge Algenon Marbley on December 29, 2021 in the United States District Court for the Southern District of Ohio in the matter of *Alsaada, et al. v. City of Columbus, et al.*, Case No. 2:20-cv-3431, the following terms have the following meanings when used in this Section:
- (1) "Kettling" is defined as a tactic where law enforcement officers surround a crowd of nonviolent protestors who have been ordered to disperse in a manner which prohibits them from having a reasonable route of exit (such as an unobstructed sidewalk, street, or alley) to comply with the dispersal order.
 - (2) "Nonviolent protestors" include individuals who are chanting, verbally confronting police, sitting, holding their hands up when approaching police, occupying sidewalks or streets apart from expressways or freeways, and/or passively resisting police orders in connection with the exercise of rights of free speech and association under the First Amendment.

1913.04 - Management, Deployment, and use of control agents, specialty impact and gas munitions

- (A) No control agent and no specialty impact and gas munitions device shall be issued to, carried by, or deployed by any sworn personnel that have not completed the requisite training and qualification standards as determined by the division of police.
- (B) Sworn personnel shall not dispense, for any reason, a control agent that has passed its expiration date as designated by the manufacturer of the control agent. Any control agent in the possession of the City which has passed its expiration date as designated by the manufacturer of the control agent shall be removed from

- inventory and immediately disposed of in compliance with all applicable laws and regulations.
- (C) Pepper balls shall not be used on nonviolent protestors as defined by Section 1913.03(B)(2).

1913.05 - Deployment of patrol rifles

A patrol rifle may only be carried, used, or deployed in response to or in anticipation of a critical incident.

1913.06 - Helicopter fleet

A Department of public safety helicopter shall do all of the following when not engaging in a law enforcement action:

- (A) Confine its flight path to major travel corridors to avoid flying above residential areas;
- (B) Maintain a standard altitude of 1,500 feet mean sea level or higher, unless instructed otherwise by the FAA on a temporary basis;
- (C) Maintain the maximum flight altitude as approved by the division to minimize the noise pollution and nuisance to surrounding areas.

1913.07 - Penalties

Sworn personnel who violate any section of this Chapter shall be subject to disciplinary action as provided by the division of police, department of public safety, or any applicable collective bargaining agreement.

1913.08 - Reporting on use of force

On or before January 30 of each year, the chief of police shall provide to Council a report on the deployment and use during the prior calendar year of all equipment regulated by Sections 1913.02, 1913.04, and 1913.05. The report shall include the following information:

- (A) The frequency of which each unit of equipment was deployed;
- (B) The location of deployment;
- (C) The purpose for which equipment was deployed;
- (D) The outcome of circumstances involving deployment;
- (E) The cost associated with deployment;
- (F) Complaints from residents regarding the deployment of equipment.

SECTION 2. The City shall conduct a triennial review of the operational capacity of the Columbus Division of Police helicopter unit to assess efficiency, cost, and ability to successfully fulfill its mission with the resources available and permitted by the Columbus City Codes.

SECTION 3. For the reasons stated in the Preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.