

Agenda Report

April 25, 2022

TO: Honorable Mayor and City Council

FROM: Pasadena Police Department

SUBJECT: MILITARY EQUIPMENT USE POLICY: DIRECTING THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO ADOPT THE POLICY PER CALIFORNIA ASSEMBLY BILL 481

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed contract is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption);
2. Direct the City Attorney to draft and return with an ordinance within 30 days to adopt a military equipment use policy pursuant to Government Code 7071.

EXECUTIVE SUMMARY:

Assembly Bill 481 (AB 481), codified as Government Code Section 7070 *et seq.*, went into effect on January 1, 2022, and requires a law enforcement agency to obtain approval of its governing body to enact a military equipment use policy before purchasing, using, raising funds for, or acquiring military equipment. AB 481 requires the policy be submitted to the City Council and posted on the City's website 30 days before a public meeting where the policy will be considered and adopted by ordinance. The attached policy (Attachment A) satisfies the requirements of AB 481 and has been posted on the City's website as required.

The Community Police Oversight Commission (CPOC) will be asked to review the policy at their May meeting. The public may also access the policy directly and offer comments at the following website: <https://www.cityofpasadena.net/police/news/ab-481-military-equipment-policy> for the next 30 days. Concurrently, staff recommends the City Council direct the City Attorney to draft a military equipment use ordinance, which is anticipated to be presented to the Council in the next 30 days, and being informed by the CPOC and public.

BACKGROUND:

Assembly Bill AB 481, codified as Government Code Section 7070 *et seq.*, went into effect on January 1, 2022 and requires law enforcement agencies that seek to continue use of military equipment accomplish the following by May 1, 2022:

- Draft a military equipment use policy that describes each piece of military equipment, including quantity, capabilities, purchase cost, purpose, authorized uses, and fiscal impact for each piece of equipment;
- Seek approval of the policy from their governing body by ordinance; and,
- Make publicly available on the agency's website any proposed or final military equipment use policy for as long as the military equipment is available for use.

After posting the policy on the agency's website for a minimum of 30 days, the governing body may then approve the policy by ordinance at a regular meeting in order for the agency to continue using the military equipment.

Thereafter, on an annual basis, the governing body will review the military equipment use policy, renew the ordinance at a regular meeting, and receive an annual report prepared by the law enforcement agency to include how any equipment was used in the prior year, a summary of any complaints or concerns received, the results of any internal audits, policy violations, total annual cost, quantities and new acquisitions planned in the next year.

If the governing body does not approve the continuing use of military equipment within 180 days of posting the policy, the law enforcement agency shall cease its use of the military equipment until it receives the approval.

The PPD drafted the Military Equipment Use Policy – 711 (Attachment A) that satisfies AB 481 and has posted the policy on the City's website as required.

The Community Police Oversight Commission (CPOC) will be asked to review the policy at their May meeting. The public may also access the policy directly and offer comments at the following website: <https://www.cityofpasadena.net/police/news/ab-481-military-equipment-policy> for the next 30 days. Concurrently, staff recommends the City Council direct the City Attorney to draft a military equipment use ordinance, which is anticipated to be presented to the Council in the next 30 days, and being informed by the CPOC and public.

The City Council does not generally play a direct role in approving PPD policies, due to Charter provisions which establish the Council-Manager form of government. However, Government Code Section 7074 in the new State law states that "ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair." Due to the new State law, staff needs to obtain the Council's approval of the policy, by ordinance.

Definition of Military Equipment

The term “military equipment,” as used in AB 481, does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, military equipment includes: unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, tear gas, pepper balls, less-lethal 40mm projectile launchers, specialized firearms and ammunition, and light-sound distraction devices commonly known as “flashbangs.” With the exception of three Bell OH-58 helicopters, which were obtained from the military, all other equipment in PPD’s inventory has been sourced through direct purchases and seizures.

Many items described as “military equipment” are less-than-lethal, standard issue equipment for peace officers and used as a component of overall best practices for law enforcement agencies throughout the country. The equipment is intended for use to save civilian lives, protect law enforcement personnel, reduce risk for the City and enhance public safety. Doing so, allows responding officers to take in and evaluate the totality of the circumstances, resulting in increased safety and reduced risk for everyone involved. The tools included in the inventory have been thoroughly tested and used in the field, and are used to enhance both public and officer safety.

COUNCIL POLICY CONSIDERATION:

The City of Pasadena is an international destination with global events and large capacity venues, home to many company headquarters, major universities and institutions and attracts visitors from around the globe. As a result, Pasadena could be seen as an ideal location for domestic terrorism or a high-level terrorist incident.

The posting of the military equipment use policy and a future approval of the policy by ordinance ensures that law enforcement continues to have access to equipment that will provide police officers as many options as possible to safeguard lives and ensure public safety. It also ensures that there are safeguards, including transparency, oversight, and accountability measures in place, for the equipment used within the city.

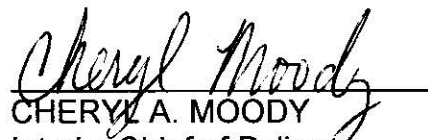
ENVIRONMENTAL ANALYSIS:

The proposed action is exempt from CEQA per section 15061(b)(3), the common sense exemption (formerly the "general rule") that CEQA applies only to projects which have the potential for causing a significant effect on the environment. No construction or other direct physical changes in the environment would occur.

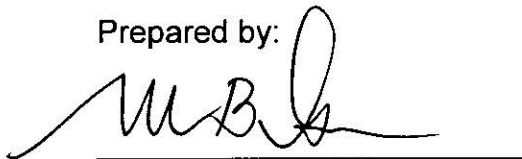
FISCAL IMPACT:

There are no fiscal impacts for the action requested.


Respectfully submitted,


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Interim Chief of Police

Prepared by:


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Police Commander

Approved by:


CYNTHIA KURTZ
Interim City Manager