

# Agenda Report

May 23, 2022

**TO:** Honorable Mayor and City Council  
**FROM:** Pasadena Police Department  
**SUBJECT: MILITARY EQUIPMENT USE POLICY: ADOPT THE POLICY AND ORDINANCE PER CALIFORNIA ASSEMBLY BILL 481**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the proposed action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption); and
2. Conduct first reading of an uncodified ordinance adopting a military equipment use policy, as prepared by the City Attorney.

## **EXECUTIVE SUMMARY:**

Assembly Bill 481 (AB 481), codified as Government Code Section 7070 *et seq.*, went into effect on January 1, 2022, and requires all California law enforcement agencies to obtain approval of its governing body to enact a military equipment use policy before purchasing, using, raising funds for, or acquiring military equipment. As required by AB 481, the draft policy was submitted to the City Council and was posted on the Police Department's (PPD) website 30 days for review and comment prior to the adoption of a military equipment use policy.

On May 5, 2022, the draft policy was presented to the Community Police Oversight Commission (CPOC) for review and discussion. Public comment was received at the CPOC and through the PPD website. Staff incorporated comments received into draft policy (attached to the proposed uncodified ordinance) and recommends the City Council adopt the policy through the ordinance.

## **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, adopt a military equipment use policy through

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

The draft policy must be posted on the agency's website for a minimum of 30 days before the governing body may then approve the policy by ordinance at a regular meeting. 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 costs; on-hand quantities and new acquisitions planned in the next year.

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."

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 de-escalate or defuse violent situations, 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.

#### Policy Review Process

On April 21, 2022, the draft policy was posted on the PPD website for the requisite 30 days. In addition to posting the draft policy, a presentation was made to the City Council on April 25, 2022. Following the presentation, the Council directed the City Attorney to prepare a military equipment use ordinance.

Concurrently, the draft policy was presented to the CPOC at their May 5, 2022 meeting. Commissioners provided comments and suggestions to staff on the draft policy. Public viewing of the draft policy and submission of public comments was made available through the PPD website. Social media posts and information on the policy were provided to local media to encourage public feedback. All written public comments received are included in Attachment A.

A summary of the written and verbal public comments PPD has received are summarized in the table below, along with responses from PPD:

Comment	PPD Response
1. Describe the approval criteria for qualified military equipment within the policy	Uncodified ordinance provides the findings required by the City Council, pursuant to Government Code Section 7071, such as that the military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety, and several other findings.
2. Clarify the approval process for the acquisition of equipment within the policy	<p>Section 711.6 of the policy updated to include:</p> <p><i>New equipment will be reviewed by the CPOC and/or the Public Safety Committee, in addition to obtaining City Council approval pursuant to Government Code Section 7071.</i></p> <p><i>Approved equipment or its equivalent may be purchased for replacement or replenishment throughout the calendar year and all such purchases will be detailed in the annual report.</i></p> <p><i>All acquired equipment must follow applicable public contracting requirements, including, but not limited to, Article X of the Charter (Contracts, Purchases and Claims) and Pasadena Municipal Code, Chapter 4.08 (Competitive Bidding and Purchasing).</i></p>
3. Specify the ongoing role of the CPOC in the review process within the policy	<p>Section 711.6 of the policy updated to include a review by the CPOC and/or the Public Safety Committee before purchase or acquisition of any new equipment not already authorized in the policy.</p> <p>Section 711.9 of the policy updated to include CPOC and/or Public Safety Committee review of the annual report.</p>
4. Include a statement in the policy regarding the intended use of the equipment	<p>In addition to the descriptions of equipment use for each item in the inventory, Section 711.3 of the policy updated to include:</p> <p><i>The primary purpose of the military equipment is for de-escalation and to preserve life.</i></p>

<b>Comment</b>	<b>PPD Response</b>
5. Explain who can authorize deployment of equipment, e.g. staging, versus the actual use of the equipment	The equipment list includes a section labeled <i>Authorized Use</i> that specifies who may authorize the use of the equipment, inclusive of authorization to deploy.
6. Describe the records that will be kept on the equipment use	The annual report required by Government Code Section 7072 will include a summary of how the military equipment was used and the purpose of its use.
7. Add photos of equipment in the inventory	Photos were added to the inventory list.
8. Improve visibility of website links to the policy on the PPD website	A prominent link to the policy was immediately added to the PPD website; direct links were published on social media and provided to local media. Upon adoption, the policy will be published alongside all PPD policies on the PPD website.

Based on review by the CPOC and incorporation of all comments received into the draft policy, staff recommends the City Council conduct the first reading of an Uncodified Ordinance adopting a military equipment policy, as prepared by the City Attorney.

### **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 use of military equipment, as set forth in the policy, 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.

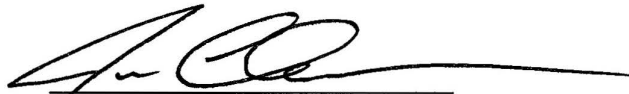
**ENVIRONMENTAL ANALYSIS:**

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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