



CITY COUNCIL STAFF REPORT



April 9, 2024

ITEM TITLE

Annual Military Equipment Report: Accept the Annual AB 481 Military Equipment Report and Review and Renew Ordinance No. 3549

Report Number: 24-0090

Location: No specific geographic location

Department: Police

G.C. § 84308: No

Environmental Notice: The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act State Guidelines. Therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Conduct the public hearing and adopt a resolution accepting the annual report and renewing Ordinance No. 3549, the Chula Vista Police Department Military Equipment Use Policy.

SUMMARY

AB 481 requires law enforcement agencies to obtain approval of a military equipment use policy from their applicable governing body and to submit an annual military equipment report. The governing body must annually review the acquisition and use of military equipment, determine whether the equipment identified complied with the standards set forth in the policy and law, and vote on whether to renew or modify the policy.

On May 3, 2022, the Chula Vista City Council approved Chula Vista Police Department Policy 714 (Military Equipment) via Ordinance No. 3520 in accordance with AB 481. In addition to maintaining the highest levels of public safety, the Chula Vista Police Department is committed to transparency, public trust, community partnerships, and compliance with the law. The Department now submits its 2023 Annual Military Equipment Report in accordance with requirements set forth in California Government Code section 7072.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under

Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. In addition, notwithstanding the foregoing, the Director of Development Services has also determined that the “Project” qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

RELEVANT LAW

On September 30, 2021, California Governor Gavin Newsom approved Assembly Bill 481 (AB 481), codified as Government Code sections 7070-7075, which requires law enforcement agencies to obtain approval of a military equipment use policy from their applicable governing body prior to acquiring, deploying, using, seeking funds or contracting for military equipment. Subsequent to adoption of a military equipment use policy, the law enforcement agency must submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body and make the report available on its website.

The annual military equipment report required by Government Code section 7072 must contain the following information for each type of military equipment:

- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- (5) The quantity possessed for each type of military equipment.
- (6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

Additionally, within 30 days of submitting its annual report, the law enforcement agency must hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency’s funding, acquisition, or use of military equipment.

The governing body must annually review the acquisition and use of military equipment, as specified in the annual report, determine whether the equipment identified in the report complied with the standards set forth in Government Code 7071(d), and vote on whether to renew or modify the policy previously approved. If the governing body determines that a type of military equipment has not complied with the standards set forth in Government Code 7071(d), the governing body may disapprove authorization for that type of equipment or require modifications to the military use policy to resolve the lack of compliance.

The standards set forth in Government Code 7071(d) are as follows:

- (A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

CHULA VISTA POLICE DEPARTMENT COMPLIANCE AND REPORTING

The Chula Vista Police Department's Military Equipment Policy, Policy 714, was first reviewed by the Chula Vista City Council, determined to be compliant with Government Code 7071(d), and approved on May 3, 2022, via Ordinance No. 3520. Policy 714 is a written document that governs the Department's use of military equipment; describes each type of military equipment by quantity and capability, expected lifespan and manufacturer product description; addresses the purposes and authorized use for each type of listed equipment; addresses fiscal impact, including initial cost and annual maintenance costs; addresses the legal and procedural rules that govern authorized use and training required before use to ensure the full protection of the public's welfare, safety, civil rights and civil liberties; requires compliance with the policy, addresses mechanisms to ensure compliance with the policy and sanction for policy violations; and addresses the procedures for registering public complaints, concerns and questions and timely response to same. In April 2023, the City Council, via Ordinance No. 3549, approved amendments to Policy 714 to add equipment descriptions for additional unmanned aircraft and specialized firearms, to delete equipment no longer in use, and to clarify that the Police Chief is authorized to order replacement types of equipment authorized in the policy. The Council additionally reviewed the Police Department's 2022 Annual Military Equipment Report and determined that the types of equipment identified in the annual report comply with the standards set forth in Government Code 7071(d) (see Attachment 1).

Tonight, the Police Department provides its 2023 Annual Military Equipment Report ("Report") in compliance with AB 481 (Attachment 3). The Report, attached as Attachment 3, provides all information required by Government Code section 7072 (as described above), including a summary of how the equipment was used, whether any complaints were received, whether any violations occurred, and the fiscal impacts associated with such equipment, including the total annual costs for each type of equipment, the

quantity possessed for each type of equipment, and if the Department intends to acquire additional equipment in the next year.

The Report identifies changes to three types of equipment categories. In the category of unmanned aircraft, the Police Department has replaced one drone with a drone funded by the Chula Vista Police Foundation: one DJI Matrice 350 RTK drone replaces one out of service DJI Matrice 300 drone. In the category of Specialized Firearms and Ammunition of Less than .50 Caliber, the Police Department has retained two COLT M4 LE6946CQB Rifles that it was previously going to trade in and instead assigned them to the SWAT equipment truck to be used for training purposes only when officers attend training at SWAT schools/academies. For training equipment only, 6 additional training conversion kits and 2 training diversionary device kits were identified in the training inventory and have been added to the Report.

Updated Attachment A to Policy 714 (Attachment 2) reflects the above changes. No other portions of Policy 714 have been changed.

Of note, during the last calendar year, the Chula Vista Police Department had no complaints regarding its use of military equipment, and no violations of its Military Equipment Use Policy.

The Police Department maintains that its military equipment, including the additionally noted drone, rifles, and training kits, is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The Department's military equipment policy, Policy 714, continues to safeguard the public's welfare, safety, civil rights, and civil liberties. The existing military equipment was purchased pursuant to the City's existing procurement requirements and best-practice protocols, and is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety. Additionally, the Department's military equipment uses, as described in the 2023 annual report, are compliant with existing Department policies (including Policy 714).

The proposed Resolution: (1) accepts the 2023 Annual Military Equipment Report; and (2) renews Ordinance No. 3549, the Chula Vista Police Department's Military Equipment Use Policy, Policy 714.

COMMUNITY ENGAGEMENT

The Chula Vista Police Department frequently displays select military equipment during outreach and community events as a means of public awareness, transparency, education, and building relationships.

The Chula Vista Police Department also believes in community engagement and the opportunity to enhance relations. Therefore, the 2023 Military Equipment Report has been available for public review on both the Police Department's webpage and the City Clerk's webpage since Monday, March 11, 2024. The Police Department conducted a community engagement meeting in Council Chambers on Monday, March 11, 2024 at 5:00pm at which the public could discuss and ask questions regarding the annual military equipment report and the agency's funding, acquisition, or use of military equipment. The community will also be able to provide comments regarding the report at the April 9, 2024 City Council meeting. Additionally, in accordance with AB 481, the Police Department has scheduled a community engagement meeting to be held within 30 days of submission of this report on April 16, 2024. Such meeting will be well-publicized on the Department's website and social media accounts.

The Chula Vista Police Department is committed to the service and protection of our community. With the dynamic nature of critical incidents, the Department employs a variety of military equipment to assist in the swift and safe resolution to these incidents. As the Department's inventory of military equipment varies, the possession of the equipment does not warrant its use for every incident. The Department strives to effectively protect the public using the latest advancement in technology and equipment while also being transparent with the military equipment use and inventory.

The Police Department accordingly submits its 2023 Annual Military Equipment Report (see Attachment 3) to City Council and respectfully requests that City Council approve the proposed resolution accepting the Report and renewing Ordinance No. 3549.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.). Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

All costs related to the Police Department's Military Equipment Policy are included in the fiscal year 2024 appropriations for the Police Department.

ONGOING FISCAL IMPACT

The Police Department's Military Equipment Inventory is outlined in the Military Equipment Report. During the budget process, ongoing maintenance or repair of this equipment will be included in the proposed budget. If any additional appropriations are required for this equipment, then City staff will seek Council approval at that time.

ATTACHMENTS

Attachment 1: Ordinance No. 3549

Attachment 2: CVPD Military Use Policy 714

Attachment 3: CVPD 2023 Military Equipment Report

Staff Contact: Police Chief Roxana Kennedy

Police Captain Dan Peak