



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Police Department Specialized Equipment Use Policy.

1. Urgency Ordinance for Introduction.

COUNCIL ACTION

Item Type: Action

Approved for April 12, 2022 **calendar**

EXECUTIVE SUMMARY

Pursuant to Assembly Bill 481 (“AB 481”), the Glendale Police Department must obtain the City Council’s approval to continue the use of any “military equipment,” as defined, by an ordinance adopting an equipment use policy. The equipment identified as “military equipment” in AB 481 is referred to as “Specialized Equipment” in this report and in the policy, as many of the items are not necessarily military items. If the proposed urgency ordinance is adopted, AB 481 requires that it be reviewed annually by the City Council.

COUNCIL PRIORITIES

- Informed & Engaged Community: The Specialized Equipment Use Policy provides the public with information about the funding, acquisition, and use of specialized equipment by the Police Department.
- Safe & Healthy Community: The equipment and items discussed in this report enhance the safety of the public and officers. This equipment may be used to assist the Police Department in de-escalating intense situations or bringing volatile conditions and critical incidents to a safe resolution.

RECOMMENDATION

Introduce the proposed urgency ordinance approving the Glendale Police Department's Specialized Equipment Use Policy.

BACKGROUND

On September 30, 2021, the Governor approved AB 481. This bill became effective on January 1, 2022, and adds Government Code sections 7070 through 7075 regarding the funding, acquisition, and use of "military equipment," as defined, by law enforcement agencies. The equipment identified as "military equipment" in AB 481 is referred to as "Specialized Equipment" in this report and in the policy, as many of the items are not necessarily used by the military. AB 481 requires a law enforcement agency to obtain the approval of its governing body, through the adoption of a policy, by ordinance at a regular meeting held pursuant to the Brown Act, before taking certain actions relating to the funding, acquisition, or use of such equipment. The new law also allows the City Council to approve the funding, acquisition, or use of specialized equipment within its jurisdiction only if it determines that the equipment meets specified standards.

ANALYSIS

AB 481 defines "military equipment" as:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.

- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- (8) Firearms of .50 caliber or greater. However, standard-issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard-issue shotgun ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard-issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

The items included in the statutory definition are not necessarily items used by the military. In fact, some items are standard issue equipment for police officers. Thus, the equipment listed in AB 481 is referred to in this report and in the Police Department's policy as "Specialized Equipment."

Under AB 481, law enforcement agencies must obtain approval from their governing bodies, by an ordinance adopting an equipment use policy for the above-listed items, prior to:

- Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

This provision deals with transferring defense property to federal and state agencies for law enforcement activities. For over ten years, the Glendale Police Department has not acquired property from the Defense Department under the 1033 Program.

- Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

- Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
- Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
- Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.
- Acquiring military equipment through any means not provided set forth above.

Attached as "Exhibit A" is the Glendale Police Department's Specialized Equipment Use Policy. The Specialized Equipment Use Policy includes an equipment inventory. The Police Department uses the noted equipment to keep the City of Glendale, its residents, businesses, and visitors safe. Additionally, the specialized equipment is integral to assisting incident commanders in bringing dynamic and unpredictable incidents to a safe resolution. The inventory includes less than lethal options that are standard issue equipment for police officers. Department staff train all personnel to properly use and handle specialized equipment issued.

The policy complies with AB 481 in that it includes the following required provisions:

- (1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the law enforcement agency proposes to use each type of military equipment.
- (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer is allowed to use each specific type of military equipment to ensure the

complete protection of the public's welfare, safety, civil rights, and civil liberties and complete adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) The procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

Under AB 481, the City Council may approve the funding, acquisition, or use of the Glendale Police Department's specialized equipment only if it determines all of the following:

(A) The specialized equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed Specialized 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 equipment use complied with the specialized equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying specialized equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(Government Code section 7071 (d)(1))

Staff believes the Specialized Equipment Use Policy and the equipment listed in the inventory satisfy the above standards.

It should be noted that the Specialized Equipment Use Policy includes a provision regarding outside law enforcement agencies. This provision requires law enforcement agencies that provide mutual aid to the City of Glendale to comply with their respective military use policies when providing such assistance.

In addition, the Specialized Equipment Use Policy expressly provides that the Police Department intends to maintain the equipment supply levels noted. The policy authorizes the Chief of Police to provide police officers with standard-issue specialized equipment and to acquire and maintain the appropriate inventory for expendable specialized

equipment in accordance with the City's Purchasing Policy. Moreover, the policy allows the Police Department to order, replenish, replace, and/or renew its inventory. The Police Department intends to replace a portion of its rifles upon approval of the policy. Absent exigent circumstances, the Police Department will obtain City Council approval to acquire specialized equipment not listed in the inventory.

The Police Department is not seeking to purchase any new equipment with this report. Purchase of the items currently in possession of the Police Department have been approved during the annual budget process and comply with the City's Purchasing Policy.

If the proposed urgency Ordinance regarding the Specialized Equipment Use Policy is adopted, it will be subject to annual City Council review to determine whether the standards set forth above have been met based on a yearly Specialized Equipment report.

AB 481 requires publication of the Specialized Equipment Use Policy and the inventory list on the Police Department's website at least 30 days prior to any public hearing concerning the equipment at issue. The Police Department posted the policy on March 11, 2022, thus complying with the posting requirement.

Staff recommends that the proposed ordinance be introduced and adopted as an urgency measure in light of the language in AB 481 that requires the governing body approval process to commence by May 1, 2022.

STAKEHOLDERS/OUTREACH

The Police Department conducted a meeting with the Glendale Police Chief's Advisory Panel on March 9, 2022, to discuss the Specialized Equipment Use Policy.

FISCAL IMPACT

There is no fiscal impact associated with this report. Future costs to restock inventory and maintain equipment will be planned for during the Police Department's annual budget process.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

The ordinance is not a project within the meaning of section 15378 of the California Environment Quality Act ("CEQA") Guidelines because it has no potential to result in a physical change in the environment, directly or indirectly. (Cal. Code of Reg. 15378(b)(5)) This ordinance is also exempt under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

CAMPAIGN DISCLOSURE

Not applicable.

ALTERNATIVES

Alternative 1: Introduce the proposed urgency ordinance as requested by the Police Department.

Alternative 2: Not introduce the proposed urgency ordinance.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

ADMINISTRATIVE ACTION

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Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS/ATTACHMENTS

Exhibit A –Specialized Equipment Use Policy