



City of Culver City

Staff Report Details (With Text)

File #: 23-109 **Version:** 1 **Name:** Subchapter 3.04.400 Military Equipment
Type: Minute Order **Status:** Public Hearing
File created: 8/9/2022 **In control:** City Council Meeting Agenda
On agenda: 8/22/2022 **Final action:**
Title: CC - PUBLIC HEARING: (1) Introduction of an Ordinance of the City of Culver City Adding Subchapter 3.04.400 to Title 3, Chapter 3.04 of the Culver City Municipal Code, Governing the Use of Military Equipment by the Culver City Police Department and Approving the Military Equipment Funding, Acquisition and Use Policy Pursuant to Assembly Bill 481; and (2) Provide Direction to the Police Chief as Deemed Appropriate.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2022-08-22_ATT1_placeholder_Affidavit of Publication.pdf, 2. 2022-08-22_ATT2_AB481 Text.pdf, 3. 2022-08-22_ATT_3_Proposed Ordinance_PD Military Equipment.pdf, 4. 2022-08-22_ATT4_Draft Military Equipment Policy.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------------------|--------|--------|
| 8/22/2022 | 1 | City Council Meeting Agenda | | |
| 8/22/2022 | 1 | City Council Meeting Agenda | | |
| 8/22/2022 | 1 | City Council Meeting Agenda | | |
| 8/22/2022 | 1 | City Council Meeting Agenda | | |

CC - PUBLIC HEARING: (1) Introduction of an Ordinance of the City of Culver City Adding Subchapter 3.04.400 to Title 3, Chapter 3.04 of the Culver City Municipal Code, Governing the Use of Military Equipment by the Culver City Police Department and Approving the Military Equipment Funding, Acquisition and Use Policy Pursuant to Assembly Bill 481; and (2) Provide Direction to the Police Chief as Deemed Appropriate.

Meeting Date: August 22, 2022

Contact Person/Dept.: Assistant Chief Jason Sims/Police

Phone Number: (310) 253-6391

Fiscal Impact: Yes No **General Fund:** Yes No

Attachments: Yes No

Commission Action Required: Yes No

Public Notification: (E-Mail) Meetings and Agendas - City Council (08/17/2022); (Posted) City Website (03/11/2022 and continuing); (Posted) Police Department Website (03/11/2022 and continuing); (Published in) Culver City News (08/11/2022).

Department Approval: Manuel Cid, Police Chief (08/10/2022)

RECOMMENDATION

Staff recommends the City Council (1) introduce an Ordinance of the City of Culver City Adding Subchapter 3.04.400 to Title 3, Chapter 3.04 of the Culver City Municipal Code, Governing the Use of Military Equipment by the Culver City Police Department and Approving the Military Equipment Funding, Acquisition and Use Policy Pursuant to Assembly Bill 481; and (2) provide direction to the Police Chief as deemed appropriate.

PROCEDURE

1. The Mayor seeks a motion to receive and file the affidavit of mailing, publishing and posting of public notice (Attachment 1);
2. The Mayor calls on staff for a brief staff report and City Council poses questions to staff as desired;
3. The Mayor seeks a motion to open the public hearing and the City Council received public comment;
4. The Mayor seeks a motion to close the public hearing after all public comment has been presented;
5. The City Council discusses the matter and arrives at its decision.

BACKGROUND

On September 30, 2021, Governor Newsom signed into law Assembly Bill 481 (AB 481 or the Bill), codified at Government Code sections 7070 through 7075 (Attachment 2). AB 481 requires a law enforcement agency (LEA) to obtain approval from the applicable governing body, via adoption of a “military equipment” use policy (the Policy) by ordinance (the Ordinance), prior to the LEA funding, acquiring, or using equipment deemed military equipment as defined in AB 481.

The term “military equipment,” as used in AB 481, in fact, does not necessarily indicate the equipment has been used by or acquired through the military. Items deemed to be “military equipment” by AB 481 are used as a component of overall best practices for law enforcement agencies (LEAs) throughout the country. These tools have been tested in the field and are used by LEAs to enhance public and officer safety. None of the equipment in the Culver City Police Department’s (CCPD) inventory has been obtained from the military, nor is it solely designated for military use.

Pursuant to AB 481, items deemed to be “military equipment” include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less-lethal 40mm projectile launchers, and flashbangs.

AB 481 requires LEAs to “commence a governing body approval process” prior to May 1, 2022. Additionally, if the governing body does not approve and adopt the military equipment use policy within 180 days of when it is first submitted, the LEA must cease using the military equipment until the policy is approved and the ordinance adopted. Further, AB 481 requires that the draft policy is posted on the LEA’s internet website at least thirty days prior to any public hearing on the policy.

At the April 11th 2022 City Council meeting, staff from CCPD and the City Attorney's Office presented City Council with the department's Military Equipment Use Policy and the associated Proposed Military Equipment City Ordinance. Community members had numerous comments and questions during this meeting about this policy and associated ordinance. At the conclusion of this meeting, City Council directed CCPD Staff to host a community meeting to discuss and educate the public on this assembly bill and the Department's associated policy.

On June 22, 2022, CCPD staff met with the Chief's Advisory Panel (CAP) and discussed AB 481 along with the department's draft Military Equipment Use Policy.

After the April 11th meeting, CCPD staff made adjustments to the Policy, consistent with comments heard from the public and from City Council at the April 11th meeting. Per Council's direction, on July 21, 2022 at 6:30 PM, staff from the Police Department and the City Attorney's Office held a community meeting at the Veteran's Memorial Auditorium. The meeting was advertised on the Police Department's website, social media platforms (Facebook & Instagram), culvercity@public.govdelivery.com, and in the Culver City News. Twenty-five people attended in person, while another 35 people attended virtually via Webex. A brief presentation was provided to the attendees and the remainder of the 1.5-hour meeting was spent answering questions related to AB 481 and CCPD's related policy. A few days after the meeting, a link to watch a recording of the meeting was posted on the Police Department's website (culvercitypd.org).

CCPD is committed to using the most up-to-date tools and equipment to safeguard the citizens of Culver City. Many of the items deemed to be “military equipment” by AB 481 are in fact employed by CCPD, and LEAs across the country, in order to specifically reduce risk to community members. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items at issue in this report, and accompanying Military Equipment Use Policy, also provide CCPD's peace officers with vital tools that facilitate compliance with its stringent use of force policy. Loss of these items would jeopardize the welfare of citizens and peace officers within the CCPD.

DISCUSSION

There is significant interest in ensuring that law enforcement continues to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools identified below is vital to CCPD's mission and will continue to be strictly regulated through internal processes and oversight.

The proposed Ordinance (Attachment 3) is in compliance with AB 481 and is necessary to adopt, in order to approve CCPD's Policy 704, which constitutes CCPD's Military Equipment Use Policy (Attachment 4). As

required by AB 481, the draft Policy was posted on the Police Department's website beginning on March 11, 2022, 30 days prior to the original introduction of the Ordinance. As corrections and edits were made to the Policy and the inventory attached to the Policy, the updated version was posted. Policy 704 outlines each item identified in Government Code section 7070 as military equipment that is currently owned and utilized by CCPD. The Policy also includes the current use and cost of each item. The itemized inventory of equipment, and the stated uses, have been in place prior to the implementation of AB 481. The inventory also includes pending acquisitions. Future acquisitions of any item not on the inventory and deemed to be "military equipment" will require a further public meeting, policy update, and City Council approval.

The proposed Policy 704 safeguards the public's welfare, safety, civil rights, and civil liberties. Policy 704 ensures that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, as required by the Bill, Policy 704 requires that CCPD conduct an annual audit of military equipment and present a military equipment report at a yearly community meeting. Members of the public are provided direction, per the Policy, on how to register complaints with CCPD related to its use of military equipment. All items which result in a use of force will be investigated, as is already required by existing CCPD policy.

There are no reasonable alternatives to the items listed below as these are the best standards and practices. Additionally, CCPD has not discovered alternative items that can achieve the same officer and civilian safety objectives. Therefore, each item's necessity is further described below:

- Unmanned remotely piloted powered aerial vehicles (*unarmed*): Unmanned aerial vehicles (UAVs) are necessary as they provide visibility to high-risk locations, search for suspects, used for overwatch during critical incidents, crime scene investigations, fires, and disaster management.
- Robot (Pending Acquisition): The Robot is a remotely controlled unmanned machine that operates on the ground and enhances the safety of the community and officers. This device can be remotely operated from many hundred meters away, providing protection and safety to their operators and the community. The utilization of this Robot also allows for de-escalation and the peaceful surrender and arrest of a violent suspect while reducing the potential of an armed confrontation with officers that may lead to a lethal conclusion.
- Command & Control Trailer: The Command & Control Trailer is a 30ft trailer equipped with computer monitors, desks, chairs, and a soundproof room. This trailer will be deployed during critical incidents such as major disasters, pre-planned high-risk warrant operations, Crisis Negotiation Team operations, large-scale pre-planned events, natural disasters, and community outreach events. The Command & Control Trailer provides mobility, sheltering, and logistical support during any of the previously mentioned incidents or scenarios.
- Armored Personnel Carrier (Pending Acquisition): Two (2) Ford Transit Vans 350HD, extended roof, V6, 6-speed automatic, outfitted and equipped with the following: NIJ III level vehicle armoring, 360-degree exterior camera system, upgraded HD hinges, breaching tool storage, rear bench seating with seatbelts, interior grab rails, automatic door opening system, rear compartment A/C and heater, medical supplies and equipment, HD tires with run-flat tire inserts, HD removable side, and rear steps, front push-bars, custom exterior side grab rails, emergency roof escape hatch, police lights and siren packages, police communication radios

(front & rear) and ATF approved bench storages.

Both armored vans seat 10-12 people with an open floor plan that allows for the rescue of down personnel. In addition, the vans can stop various projectiles, which provides greater safety to citizens, officers, and EMS personnel beyond the protection level of a shield and/or personal body armor.

- Specialized firearms and ammunition, including assault weapons: Patrol rifles, Emergency Response Team (ERT) rifles, and sniper rifles enable officers when in compliance with the CCPD's Use of Force Policy, to address medium to long-distance threats, or those threats who are heavily armed, protected by armor, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement, minimizing the risk to officers and innocent citizens.
- Flashbangs: Flashbangs are used as a non-lethal distraction device in order to disorient or divert a violent felon(s) attention away from officers. This can allow officers to gain safer access to a high-risk situation, giving extra time to assess and analyze existing threats. This can prevent injury to officers and citizens. These devices can often lead to a safer resolution and allow officers to take a citizen into custody without force. Flashbangs have become the industry standard and the best option for law enforcement when their use is reasonable and necessary.
- Tear gas: Tear gas is a less-lethal method used to address violent suspects or violent riotous crowds when there is a risk to physical safety. It is also used to safely extract a barricaded suspect from a fixed location during a critical incident, high-risk warrant operations, or safely detain a violent suspect who poses a risk of violence to officers and or the community. This weapon is less lethal and affords peace officers an added option to avoid lethal force encounters.
- Pepper Balls: Pepper Balls is a less-lethal method used to address violent suspects or violent riotous crowds from a safe distance when there is a risk of physical safety. Pepper Balls are less lethal and afford peace officers an added option to avoid lethal force encounters.
- 40mm projectile launchers: The 40mm launcher affords the ability to use less-lethal chemical agents and impact munitions. This allows officers to address a threat from a greater distance and provides an alternative option for deadly force when reasonable.

All use of what has been deemed military equipment by AB481 must be reasonably necessary and conform to the Culver City Police Department's use of force and other policies. All the facts and circumstances surrounding the incident must be carefully weighed and considered before authorizing the use of, and or utilizing this equipment. The Culver City Police Department understands that the use of this equipment has the potential to be controversial when it is used to disperse a violent and riotous crowd. As such, the use of this equipment for the purpose of dispersing a violent and riotous crowd must first be approved by the Chief of Police.

Lastly, the Culver City Police Department has clearly established working relationships with police departments from Mutual-Aid Group A (*Santa Monica PD, Beverly Hills PD, West Hollywood Sheriffs, and UCLAPD*), the Los Angeles Police Department, California Highway Patrol, the Los Angeles County Sheriff's Department, and other Los Angeles County law enforcement agencies. In these exigent circumstances

(i.e., high-risk warrant service, barricaded suspect, hostage rescue, active shooter, bomb threat, etc.), and with prior approval of the Chief of Police, CCPD has identified military equipment that may be deployed by outside entities to promote the safety and security of community members and officers. The identified equipment is listed in the AB 481 Policy and consists of the use of armored vehicles and robots.

If an armored vehicle or a robot from an outside agency is deployed in Culver City, notification to the City Council will be made within 30-days. As defined by AB 481, military equipment used by other jurisdictions providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

CCPD seeks City Council introduction of the Military Equipment Use Ordinance, and approval of the attached Military Equipment Use Policy - 704 (Attachment A) to allow CCPD to continue to use the vital equipment specified therein and to allow neighboring police agencies to use military equipment in this jurisdiction when providing mutual-aid during exigent circumstances.

FISCAL ANALYSIS

There is no fiscal impact associated with introducing the Ordinance. There are no new financial considerations for existing military equipment and munitions.

ATTACHMENTS

1. 2022-08-22_ATT1_Affidavit of Publication
2. 2022-08-22_ATT2_Text of AB481
3. 2022-08-22_ATT3_Proposed Ordinance
4. 2022-08-22_ATT4_Proposed Military Equipment Policy

MOTIONS

That the City Council:

1. Introduce an Ordinance of the City of Culver City Adding Subchapter 3.04.400 to Title 3, Chapter 3.04 of the Culver City Municipal Code, Governing the Use of Military Equipment by the Culver City Police Department and Approving the Military Equipment Funding, Acquisition and Use Policy Pursuant to Assembly Bill 481; and
2. Provide direction to the Police Chief as deemed appropriate.