



DATE: August 5, 2024

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Brian Miller, Police Chief
Nick McGowan, Deputy Police Chief
Garrett Glaviano, Lieutenant
Eric Danly, City Attorney

SUBJECT: Receive, Review, Approve and Adopt FY24 Annual Military Equipment Use Report and Renew Ordinance No. 2859 N.C.S., which Approved Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy 709, (Use Policy) and Policy 613 Pertaining to Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) in Compliance with California Assembly Bill 481 (AB 481)

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution approving FY24 Annual Military Equipment Use Report and renewing Ordinance No. 2859 N.C.S., which approved Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy 709, (Use Policy) and Policy 613 Pertaining to Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) in compliance with California Assembly Bill 481 (AB 481).

BACKGROUND

In 2021, the California Legislature passed Assembly Bill 481 (AB481) adding new statutes to the California Government Code (Cal. Gov. Code §§ 7070-7075) requiring any state or local law enforcement agency wishing to acquire or use "military equipment" as defined in Cal. Gov. Code section 7070 after January 1, 2022, to have in effect a written policy governing the acquisition and use of equipment subject to AB481 that has been adopted by ordinance of the agency's governing body. AB481 also provides that in order for law enforcement agencies to continue to use equipment subject to AB481 that was acquired before January 1, 2022, the law enforcement agency must report annually to the governing body the usage of military equipment, any intended acquisitions in the coming year, and ask the governing body to renew the previously adopted ordinance.

On an annual basis, AB481 requires an agency to publish an Annual Military Equipment Use

Report to its website and hold at least one community engagement meeting to allow the public to ask questions and discuss the report. The annual report shall be submitted to the governing body and provide the following information:

- A summary of how the Military Equipment was used during the previous year and the purpose of its use.
- A summary of any complaints or concerns received concerning the Military Equipment.
- The results of any internal audits, any information about violations of the Military Equipment Funding, Acquisition, and Use Policy, and any actions taken in response.
- 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.
- The quantity possessed for each type of Military Equipment.
- If the Police Department intends to acquire additional Military Equipment in the next year, the quantity sought and purpose for each type of Military Equipment.

In addition, the local law enforcement agency must make the Annual Military Equipment Use Report available on their website. The governing body of the local law enforcement agency is intended to utilize the annual report as a mechanism to ensure the Department's compliance with the Military Equipment Funding, Acquisition, and Use Policy for the subsequent year.

Pursuant to AB481, once the report is submitted, the governing body shall determine, based on the Annual Military Equipment Use Report, whether each type of Military Equipment identified in that report has complied with the standards for approval set forth in the previously adopted ordinance and the Military Equipment Use Policy. If the governing body determines that a type of Military Equipment identified in that Annual Military Equipment Use Report has not complied with the standards for approval, the governing body shall either disapprove a renewal of the authorization for that type of Military Equipment or require modifications to the Military Equipment Funding, Acquisition, and Use Policy in a manner that will resolve the lack of compliance.

In compliance with AB481, the Petaluma Police Department (Department) developed Policy Section 709, Military Equipment Funding, Acquisition, and Use Policy including both the policy document and a required inventory of the equipment used by the Police Department that AB481 defines as "military equipment." The equipment defined in AB481 as military equipment is broader than just equipment previously used by or acquired from the military. The equipment detailed in AB481 is divided into fifteen (15) categories. The policy and inventory were posted for public viewing on the Department's website located [here](#).

On April 18, 2022, the City of Petaluma gave public notice on AB481 at the City Council Meeting. The staff report and recording for that meeting can be located [here](#).

On June 20, 2022, the City Council adopted Ordinance No. 2818 N.C.S. approving the Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy which included Policy Section 709, in compliance with California Assembly Bill Number 481 (AB481). Staff discussed with Council each of the items of equipment possessed by the Department in each of the

qualifying categories and identified the governing policies and State laws that regulate and guide their potential uses. The Department provided a historical overview of how and when the specific types of equipment came into possession and use. The Department provided statistical data regarding the use of such equipment as well as comparison of the types and categories possessed by the Department compared to the allied agencies in the area and agencies in the region who operate and maintain a full-service law enforcement agency with a Crisis Response Team such as Special Weapons and Tactics (SWAT) Team.

On May 4, 2023, the Department hosted a community exhibition to showcase its military equipment, attended by community members, City Council, and local media.

On July 10, 2023, staff presented the first annual Military Equipment Use report to the City Council, addressing community questions and receiving feedback for additional data and training cost summaries. The staff report and recording for that meeting can be located [here](#).

On August 7, 2023, staff presented the amended 2023 Annual Military Use Report, and Ordinance No. 2818 N.C.S. was renewed to maintain compliance with AB 481. Staff also presented Policy 613, which the Council approved and adopted in Ordinance No. 2859 N.C.S., which incorporated Ordinance No. 2818. The staff report and recording for that meeting can be located [here](#).

On June 27, 2024, the Department published the FY23/24 Annual Military Equipment Use Report online at ([Police Department Specialized Equipment - City of Petaluma](#)). Immediately following the annual report publication, the Department shared the link on social media and in a [Nixle community message](#). The community message invited members of the community to join the Department at the Petaluma City Hall on July 2, 2024, for a publicly noticed [community meeting](#) to discuss the Annual Military Use Report and display the equipment to the community. The community meeting, which was posted on the City's website and shared multiple times on the Department and City of Petaluma social media channels, provided the community an opportunity to view the Military Equipment, review the Annual Military Equipment Use Report, and ask questions regarding the use, complaints, and procurement processes.

On July 24, 2024, the Police Department presented its Annual Military Equipment Use Report for Fiscal year 2024 to the Public Safety Advisory Committee (PSAC). The meeting agenda can be located [here](#).

DISCUSSION

This agenda item facilitates the transmittal of the attached Annual Military Equipment Use Report to our governing body, the City Council, as required by AB481, documenting all required information for the reporting period of July 2023 to June 2024

This agenda item seeks City Council review and approval for the continued use of all authorized military equipment identified in the previously presented Military Equipment Inventory on June 6, 2022. As shown in the Annual Military Equipment Use Report (Exhibit A), the Department used some but not all of the listed equipment and received no complaints or concerns associated with the use of the listed military equipment. In addition, the Department had no policy violations associated with deployment or use of the military equipment. The Annual Report shows the

Department has complied with the requirements of Ordinance No. 2859 N.C.S., which incorporated 2818 N.C.S. and the Military Equipment Use Policy for the previous year.

To approve the continued use of the currently authorized military equipment by the Department, Ordinance No. 2859 N.C.S. and AB481 require the City Council to find that the military equipment listed in the policy is necessary because there is no cost effective reasonable alternative that can achieve the same objective of community and officer safety and that the proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

All of the equipment listed in the policy was designed to enhance law enforcement's ability to ensure public safety and welfare. The policy ensures that there are safeguards, including transparency, oversight, and accountability measures in place for the use of the listed equipment. Members of the public are provided direction per the policy on how to register complaints for violations. All items which result in a use of force are investigated and reviewed by the Department and the Office of the Independent Police Auditor. Based on ongoing equipment evaluation and deployment history, the Department has not discovered alternative equipment items that can achieve the same objects of community and officer safety. The equipment in the Petaluma Police Department's inventory that is subject to AB481 allows the Police Department to protect both the community and staff during life threatening incidents. Some of the equipment is specifically intended to help de-escalate and peacefully resolve life-threatening situations. With this equipment, the Police Department can safely respond to critical, possibly life-threatening incidents and use less lethal methods to achieve safe and successful outcomes without the use of deadly force.

The Professional Standards Lieutenant is assigned to oversee the military equipment inventory, provide the required annual report, coordinate the annual community meeting and City Council review, and establish and oversee the required complaint procedure. The Professional Standards Lieutenant also reviews all use of force related incidents involving all military equipment with the Office of the Independent Police Auditor.

In 2023, the Department responded to 61,753 calls for service, which resulted in 4,803 police reports and 2,058 arrests. Out of the 61,753 calls for service, there were a total of 119 incidents involving an application or show of force used by the Department. Of the 119 total incidents, only 61 incidents involved a reportable use of force, which equates to Petaluma officers using force in approximately 0.1% of police contacts and approximately 3% of arrests. Petaluma Officers displayed a weapon an additional 58 times, which equates to officers using force or displaying a weapon approximately 0.2% (119 incidents) of all calls for service and approximately 6% of arrests in 2023.

This use of force data along with additional arrest, demographic, and complaint information is available on the Department's transparency web page. Additionally, the 2023 Annual Report from the Office of the Independent Police Auditor is a detailed report outlining the audits and reviews of all use of force incidents, including military equipment. The report is available on the Department's transparency page located [here](#).

Between July 2023 to June 2024, the Department used Military Equipment as outlined in the attached Annual Military Equipment Use Report. The Department used the mobile command vehicle eleven (11) times, which included four (4) OTS DUI checkpoints, four (4) special events to display to the community, and three (3) crisis response team (CRT) operations involving individuals that were armed, potentially armed, or violent. The Department used armored personnel carriers three (3) times during calls for service involving the crisis response team and individuals that were armed, potentially armed, or violent. The Department used the 40mm projectile launcher to show force ten (10) times and deployed two (2) 40mm impact munitions to overcome resistance during violent encounters. Additionally, the Department used the Less Lethal Shotgun with the 12-Gauge Drag Stabilizing Beanbag munition during eleven (11) incidents to show, but not use, force to gain compliance. Lastly the Department used one (1) noise-flash diversionary device and three (3) 40mm chlorobenzylidenemalononitrile (CS) or “tear gas“ rounds to disorient a violent subject during a prolonged crisis response team incident.

The demographics associated with the use of Military Equipment toward community members is outlined in the annual report and each use of Military Equipment toward a community member was reviewed by the Professional Standards Division and the Independent Police Auditor. As of the writing of this report, the Professional Standards Division review found all uses of Military Equipment within policy and procedure. The Independent Police Auditor has not completed their review of every incident; however, for the incidents they have reviewed, they determined all uses of the Military Equipment were within policy and procedure.

The Military Equipment Funding, Acquisition, and Use Policy Section 709 requires the Department’s website to provide members of the public a method to submit complaints, concerns or questions about the use of each specific type of military equipment included in Department’s inventory list. The Department is committed to responding to complaints, concerns, and questions regarding the Military Equipment Funding, Acquisition, and Use. Between July 2023 to June 2024, the Department received zero (0) formal complaints related to Military Equipment. Additionally, the Department received zero (0) emails from a community member regarding Military Equipment.

The Annual Military Equipment Use Report must include 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 Use Report. The total cost associated with Military Equipment between July 2023 to June 2024 was approximately \$247,659.00. The increased cost is due to the acquisition of seven (8) unmanned aerial system (UAS) devices, also more commonly referred to as drones, and one (1) unmanned ground vehicle (UGV) device (aka remote-operated robot) in FY24. The projected cost associated with Military Equipment for FY25 is approximately \$210,000, which includes the \$120,000 lease for storage.

The Department is not seeking authorization to acquire any additional Military Equipment in FY25, as the Department only anticipates replacing used or damaged inventory. AB481 requires that any proposed use and equipment that was not previously approved be submitted to the local governing body and publicly available on the local law enforcement agency’s website at least 30

days prior to any public hearing to approve the use. Any future military equipment purchases would be subject to the City's existing purchasing guidelines as well as the requirements of AB481 outlined above.

In addition to review and oversight by the governing body, the Office of the Independent Police Auditor is also monitoring compliance with AB481 and has provided separate reporting to the governing body and community during their annual reporting requirements.

The Department also discussed this report at the first meeting of the recently established Public Safety Advisory Committee (PSAC) on July 24, 2024. During the PSAC meeting, committee members were provided an opportunity to ask questions about the annual report and the Department's current Military Equipment inventory. The questions were regarding the use of thermal imaging on UAS devices and 4th Amendment considerations, the availability of commercially made alternatives to the Department's armored personnel carriers, and the desired target locations for less lethal munitions. The Department staff answered the committee member questions and will provide further clarification, as needed.

PUBLIC OUTREACH

The Department continues to be a progressive leader amongst law enforcement agencies nationwide, recognizes the importance of public trust, and the importance of transparency as it relates to public trust. The Department has strived to be transparent with its policies and procedures and consistently looks for opportunities to engage the public.

The Department has a dedicated webpage for [Specialized Equipment](#) on the city website regarding military equipment. Included on the webpage is a dedicated email address: petalumapoliceequipment@cityofpetaluma.org, for community members to send in questions, concerns, and complaints.

The Department hosted a community engagement display on July 2, 2024, to provide community members the opportunity to view, comment on, discuss, and ask questions regarding the department's military equipment. The community engagement event was shared with the public through the City's weekly update and the City's social media channels, including Facebook, Nextdoor, and Instagram pages. Members from the community, City Departments, City Council and media attended the community meeting. Additionally, the Department regularly utilizes select military equipment, such as the Mobile Command Vehicle, during outreach and community events, as a means of public awareness, transparency, and education.

On July 24, 2024, the Police Department presented its Annual Military Equipment Use Report for Fiscal year 2024 to the Public Safety Advisory Committee (PSAC).

COUNCIL GOAL ALIGNMENT

This effort aligns with and achieves the City Council's goal of "A Safe Community that Thrives."

In April 2023, the City of Petaluma hired IntegrAssure to be the City's first Independent Police Auditor (IPA). The IPA provides additional oversight on policies, procedures, administrative investigations, complaints, and uses of force, including those involving the use of Military Equipment. This staff report and associated attachments are aligned with policy, oversight, AB481 and Ordinance No. 2859 N.C.S., which incorporated Ordinance No. 2818 N.C.S. On March 18, 2024, the IPA completed the first [2023 Independent Police Auditor's Annual Report](#), which audited the Department's complaints, uses of force, vehicle pursuits, policies and military equipment usage to ensure the Department is adhering to best practices.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

Using existing equipment, when available, reduces the need to manufacture new equipment which reduces the greenhouse gas emissions associated with manufacturing. There are currently no known electric armored rescue vehicles or command and control vehicles for public safety use available for consideration.

ENVIRONMENTAL REVIEW

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378. Adoption of a resolution renewing an ordinance that authorizes the police department's use of current and budgeted equipment subject to AB 481 does not meet CEQA's definition of a "project," because such administrative action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

FINANCIAL IMPACTS

All equipment has been in the possession of the Department and as such there are no additional financial impacts beyond maintaining authorized inventory quantities and routine maintenance and repair costs outlined in the annual report.

On July 17, 2023, City Council approved a lease agreement for the off-site storage of multiple vehicles and storage containers currently stored at the Police Department. The lease agreement for indoor and outdoor storage at 1221 Petaluma Blvd North, which will include additional vehicles beyond those specified in AB481 is projected to cost approximately \$120,00 in FY24 and on-going annually until a permanent long-term storage facility can be constructed.

The total anticipated cost for Military Equipment for FY25 is approximately \$90,000.00. There is an additional cost of approximately \$120,000 which encompasses the total rental agreement for our storage facility at 1221 Petaluma Blvd North. This property houses the Department's armored rescue vehicles, mobile command vehicle, and other essential non-Military Equipment city vehicles.

ALTERNATIVES

Staff do not have any recommendations for alternatives at this time.

ATTACHMENTS

Attachment 1. Resolution Approving AB 481 FY 23-24 Annual Report

Exhibit A- FY24 Annual Military Use Report (AB481)

Exhibit B – Military Equipment Funding, Acquisition, and Use Policy 709

Exhibit C – UAS and UGV Operations Policy 613

Attachment 2. Ordinance No 2859 N.C.S.

Attachment 3. Ordinance No 2818 N.C.S.