



DATE: August 7, 2023

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

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

SUBJECT: Receive and Review FY23 Annual Military Equipment Use Report and Renew Ordinance No. 2818 N.C.S., which Approved Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy 709, (Use Policy) in Compliance with California Assembly Bill 481 (AB 481) (Continued from July 10, 2023) and Introduction of an Ordinance of the City Council of the City of Petaluma to Approve Petaluma Police Department Policy 709 and 613 Pertaining to the Use and the Acquisition of seven (7) Unmanned Aerial Systems (UAS), Also Known as Drones, and the Acquisition of an Unmanned Ground Vehicle UGV, Also Known as a Robot

RECOMMENDATION

It is recommended that the City Council receive and review FY23 Annual Military Equipment Use Report and Renew Ordinance 2818, which Approved Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy 709, (Use Policy) in Compliance with California Assembly Bill 481 (AB 481), and Introduction of an Ordinance of the City Council of the City of Petaluma to approve Petaluma Police Department Policy 709 and 613 pertaining to the use and acquisition of unmanned aerial systems (UAS), also known as drones, and the acquisition of an unmanned ground vehicle UGV, also known as a robot.

BACKGROUND

In 2021, the California Legislature passed Assembly Bill 481 (AB481) adding new statutes to the Government Code ([GC § 7070-7075](#)) requiring any state or local law enforcement agency wishing to acquire or use "military equipment" as defined in the statute 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 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. In addition to review and oversight by the governing body, the Office of the Independent Police Auditor is also monitoring compliance with AB481 and will provide separate reporting to the governing body and community during their annual reporting requirements.

Pursuant with 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 being limited to 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](#). 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](#), 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.

Additionally, on June 20, 2022, the Department presented a draft policy governing the use of Unmanned Aerial Systems (UAS) commonly referred to as drones. AB 481 defines UAS as qualifying military equipment, even if they were not produced for or used by the military. At that time and even now presently, the Department does not possess UAS equipment. Through the presentation of the draft policy and discussion regarding UAS use the Department sought approval to acquire UAS and utilize them in accordance with departmental policy and authorized uses. The Department experienced and observed the benefits of law enforcement agencies utilizing UAS as seen through the Sonoma County Sheriff’s Office use and assistance in one of our agency’s own missing person cases where a UAS was used to supplement grid searches in remote difficult-to-access areas. A UAS operated by the Marin County Sheriff’s Office was also used in emergency operations efforts to assess and coordinate the response associated with a hillside that slid potentially impacting the 101 freeway and critical infrastructure nearby. In 2023, the Department established an internal UAS team to research the various UAS equipment and vendors available to determine which systems would best enhance the department’s mission of protecting lives and property when other means and resources are not available or are less effective, more costly, and more dangerous.

On July 10, 2023, City Council continued and moved this agenda item “Receive and Review FY23 Annual Military Equipment Use Report and Renew Ordinance No. 2818 N.C.S., Approving Petaluma Police Department’s Military Equipment Funding,

Acquisition, and Use Policy, in Compliance with California Assembly Bill 481 (AB481)” from the City Council consent agenda to “Matters for Consideration” on August 7, 2023, so as to provide opportunity for additional community comment, input, and review.

Staff received direction to provide additional demographic data, a summary of personnel training costs, and anticipated storage costs related to the specified military equipment in the Annual Military Equipment Use Report.

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 June 2022 to June 2023.

This agenda item also 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. 2818 N.C.S. and the Military Equipment Use Policy for the previous year.

In order to approve the continued use of the currently authorized military equipment by the Department, Ordinance No. 2818 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 for law enforcement to achieve safe and successful outcomes without the use of deadly force.

The Department has assigned the Professional Standards Lieutenant 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 2022, the Department responded to 57,104 calls for service, which resulted in 4630 police reports and 1940 arrests. Out of the 57,104 calls for service, there were a total of 113 incidents involving an application or show of force used by the Department. Of the 113 total incidents, only 57 incidents involved a reportable use of force, which equates to Petaluma officers use of force in approximately 0.1% of police contacts and approximately 3% of arrests. Petaluma Officers showed force an additional 56 times, which equates to officers using force or displaying a weapon approximately 0.2% (113 incidents) of all calls for service and approximately 6% of arrests in 2022.

This use of force data along with additional arrest, demographic, and complaint information is available on the Department's transparency web page.

Between June 2022 to June 2023, the Department used Military Equipment as outlined in the attached Annual Military Equipment Use Report. The Department used the armored personnel carriers five (5) times, which include training, performing evacuations during an "atmospheric river" state of emergency, one mutual aid for an armed suspect, and community events. The Department used the Mobile Command Vehicle eleven (11) times at several community events, DUI checkpoints, multi-agency search and rescue operation for a Silver Alert (elderly missing at risk), and training.

The only use of Military Equipment towards members of the community were during calls for service involving individuals that were armed, potentially armed, or violent, and during high-risk vehicle stops. The Department used the 40mm projectile launcher to show force twelve (12) times and deployed one (1) 40mm impact munition to break a vehicle window one (1) time to gain access to and arrest the driver who refused to comply and was threatening officers with his vehicle. Additionally, the Department used the Less Lethal Shotgun with the 12-Gauge Drag Stabilizing Beanbag munition during eight (8) incidents to show, but not use, force to gain compliance.

The demographics associated with the use of Military Equipment toward community members is outlined in the annual report and illustrates Less Lethal munitions (40mm munitions and 12-gauge Beanbag Stabilization munitions) were used to show force where the subjects of the show of force were approximately 30% White, 35% Hispanic, 30% Black, and 5% other. The Department's only use of force involving Military Equipment (Less Lethal 40mm Launcher) during one (1) incident involved a white male

wanted for a violent felony. The use of the 40mm impact round to break the window did not harm the individual and complied with the City's use policy.

The Military Equipment Funding, Acquisition, and Use Policy Section 709 requires the Department website 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 June 2022 to June 2023, the Department received zero (0) formal complaints related to Military Equipment. The Department received one (1) email from a community member concerned about prioritizing police armament over preventative strategies.

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 June 2022 to June 2023 was approximately \$97,685.00. The projected cost associated with Military Equipment for FY24 is approximately \$230,000, and the increase is primarily due to additional storage costs and the acquisition of the unmanned aerial systems (drones), and unmanned ground vehicle (robot) discussed in more detail below.

In addition to the equipment currently in inventory, and to improve officer and public safety during high-risk and/or crisis situations, the Department is intending to acquire seven (7) unmanned aerial system (UAS) devices (aka drones) and one (1) unmanned ground vehicle (UGV) device (aka remote-operated robot) in FY24. The Department currently has no UAS or UGV devices. The seven UAS devices proposed to be acquired include three (3) smaller devices for rapid deployment in patrol, two (2) devices for collision and crime scene documentation which integrate with existing forensic software, and two (2) devices for the Crisis Response Team comprised of Special Weapons and Tactics (SWAT) team.

The Department is seeking authorization to acquire one (1) non-weaponized Unmanned Ground Vehicle (UGV) in FY24 for the Crisis Response Team comprised of Special Weapons and Tactics (SWAT) team.

Unmanned aerial system (UAS) devices are necessary as they provide visibility to high-risk locations. With a UAS, police officers would have the ability to have an overhead observation of high-risk areas, increased effectiveness of locating missing persons, improved visual assistance during rescue operations, and be ability to assess suspicious/dangerous objects from a safe distance. In addition to crime and rescue operations, UAS equipment is utilized to memorialize and document crime scenes and traffic collision scenes. These systems can also be used to de-escalate crowds and to enhance negotiations or communication during events. The UAS system can enter small

spaces, such as enclosed structures, as well as provide overhead observations of high-risk situations within business districts, residential sections, open land/wooded areas, and other crowded spaces. The absence of this equipment poses safety risks to the public and law enforcement personnel in the circumstances described. We have found no reasonable alternatives which would allow the Department to achieve these public safety objectives, and as there are no available alternatives, the purchase is reasonable and cost-effective in order to ensure community member and officer safety. It should also be noted that UAS devices are currently being used in Public Works and Utilities as well as the Fire Department for specific departmental missions, as well as by most law enforcement agencies in the region.

Remote controlled unmanned ground vehicles (UGV) are used to gather images and/or video during high-risk operations and critical incidents, most often by the specially trained Crisis Response Team which includes the Special Weapons and Tactics (SWAT) Team. The equipment provides visibility in areas where it would be unsafe to send a police officer. This system can also be used to observe potentially hazardous items, such as explosive devices or suspicious chemicals. Having access to this resource prevents the use of police officers or other emergency responders to engage in high-risk tasks and would likely shorten the mitigation process during dangerous operations. There are no known alternatives to the devices.

These UAS and UGV devices will be utilized in accordance with PPD Policy 709, Military Equipment Funding, Acquisition, and Use (Exhibit B) and PPD Policy 613, Unmanned Aerial System (UAS) and Unmanned Ground Vehicle (UGV) Operations (Exhibit C).

Regionally, both the Sonoma County Sheriff's Office and the Santa Rosa Police Department currently utilize UAS and UGV devices. By complying with these policies, the use of UAS and UGV devices will safeguard the public's welfare, safety, civil rights, and civil liberties.

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. As the Department requests the use of UAS and UGV devices to better protect Petaluma, the Department submitted the UAS and UGV policies with the July 10, 2023 on July 5, 2023 staff report, attached hereto as Exhibit B and C, and made them available on the Department's website more than 30 days ago.

For the above listed reasons and based on the attached Annual Military Equipment Use Report, Military Equipment Funding Acquisition, and Use Policy 709, and UAS and UGV Operations Policy 613, staff recommends that City Council renew and amend Ordinance 2818 (Attachment 2), which approves the continued use of the currently authorized military equipment, as well as authorizes the Department to acquire UAS and UGV devices as outlined in attached policies 709 (Exhibit B) and 613 (Exhibit C). Any

future military equipment purchases use would be subject to the City's existing purchasing use requirements as well as the requirements of AB481 outlined above.

PUBLIC OUTREACH

The Department has a dedicated webpage (<https://cityofpetaluma.org/policedepartment-specialized-equipment/>) on the city website regarding military equipment, as well as a dedicated email address: petalumapoliceequipment@cityofpetaluma.org, for community members to send in questions, concerns, and complaints can also be found on the same web page.

The Department is committed to improving the trust and confidence between the Department and the community it serves. As the Department strives to enhance community relationships and continues to be a progressive leader amongst law enforcement agencies nationwide, we want to ensure the public has access to the way its Police Department operates and engages with the public. 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.

The Department hosted a community engagement display on May 4, 2023, 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 event was covered by our local media:

- <https://www.petaluma360.com/article/opinion/community-matters-buildingtrust-is-a-two-way-street/https://www.petaluma360.com/article/opinion/community-matters-building-trust-is-a-two-way-street/>
- <https://www.petaluma360.com/article/news/letters-to-the-argus-courier-may26-2023/>
- <https://www.petaluma360.com/article/news/for-petaluma-police-armoredvehicles-are-a-mixed-blessing/>
- <https://www.petaluma360.com/article/opinion/editorial-petaluma-doesnt-needmilitary-grade-equipment/>

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. This staff report and associated attachments are aligned with policy, oversight, AB481 and Ordinance No. 2818 N.C.S.

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 on the market.

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

The projected cost to acquire the recommended remotely operated aerial and ground vehicles is approximately \$46,000. The Department intends to utilize existing funding in the FY23/24 budget to pursue these acquisitions in addition to seeking grant funding when appropriate and available.

All other 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 FY24 is approximately \$230,000.00, which includes the cost for equipment storage not associated with Military Equipment, patrol and SWAT less lethal training, and the acquisition of UGV and UAS.

ATTACHMENTS

1. Attachment 1 – Ordinance
2. Attachment 2 – Ordinance No. 2818 N.C.S.
3. Exhibit A – Annual Military Equipment Use Report
4. Exhibit B – Military Equipment Funding, Acquisition, and Use Policy 709
5. Exhibit C – Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) Operations Policy 613