



# AGENDA REPORT

Police Department

<b>DATE:</b>	October 18, 2022
<b>TO:</b>	Mayor Butt and Members of the City Council
<b>FROM:</b>	Bisa French, Chief of Police
<b>Subject:</b>	Ordinance to Approve a Military Equipment Use Policy.
<b>FINANCIAL IMPACT:</b>	The cost of the current equipment has already been approved in the FY 2022-2023 Police Department budget. The Department does not intend to purchase any additional equipment considered to be "military equipment" in 2022.
<b>PREVIOUS COUNCIL ACTION:</b>	None.
<b>STATEMENT OF THE ISSUE:</b>	Assembly Bill 481, which took effect on January 1, 2022, requires law enforcement agencies to obtain City Council approval of a military equipment use policy by Ordinance prior to taking certain actions relating to the funding, acquisition, or use of equipment used by the Richmond Police Department.
<b>RECOMMENDED ACTION:</b>	ADOPT an ordinance (second reading) pursuant to state law (Assembly Bill 481) to approve Richmond Police Department Policy 707 - Military Equipment Use Policy - Police Department (Chief Bisa French 510-620-6655).

## Background:

Assembly Bill 481 was adopted by the California Legislature and approved by Governor Gavin Newsom in September 2021. It went into effect on January 1, 2022. AB 481 is designed to increase community awareness and oversight over the possession and use by local police departments of certain types of equipment that AB 481 defines as “military equipment.” It requires the City Council to provide both authorization and oversight of the equipment used. The law, codified in California Government Code sections 7070 through 7075, requires law enforcement agencies to produce a military equipment use policy that identifies and describes: each type of military equipment; its authorized use; fiscal impact; rules/laws that govern use of such equipment; training required; and mechanisms to ensure compliance with the policy. (See Gov. Code section 7070(d)).

No later than May 1, 2022, a law enforcement agency seeking to continue use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process. The City of Richmond’s approval process began on April 26, 2022, and has resulted in several meetings and collaboration with key stakeholders and with the public. The City Council is required to adopt the policy within 180 days of beginning the approval process. Staff requests that the City Council adopt the ordinance at the October 4, 2022, City Council meeting, and if for some reason City Council requires additional amendments to the Ordinance/Policy, the Department can return later with further amendments. This 180-day period is critical to allow the Department to continue use of equipment that is vital to public and officer safety.

Military Equipment is defined by Government Code section 7070(c)(1-15) as the following:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. *(Not applicable to RPD)*
3. High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. *(Not applicable to RPD)*
4. Tracked armored vehicles that provide ballistic protection to their occupants. *(Not applicable to RPD)*
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. *(Not applicable to RPD)*
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
8. Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition. *(Not applicable to RPD)*
9. Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
10. Any firearm or firearm accessory that is designed to launch explosive projectiles. *(Not applicable to RPD)*
11. Noise-flash diversionary devices and explosive breaching tools.

12. Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
13. TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs). (*Not applicable to RPD*)
14. Kinetic energy weapons and munitions (e.g., 40MM launcher, beanbag shotgun, foam-tipped projectiles).
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.

Additionally, the law requires an annual report and annual review by the City Council for continued use of the equipment. Per Government code 7072(a), the Police Department will submit to the City Council an annual military equipment report within one year of approval, and annually thereafter for as long as the military equipment is available for use. The annual report will be made available to the public on the Police Department's website and shall include a summary of the following:

1. How the military equipment was used and for 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.

AB 481 requires the City Council to make the following findings in approving Policy 707:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. 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.
4. 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. (See Gov. Code section 7071(d)(1)).

Should the City Council desire to approve the policy, these findings are made in the attached ordinance (Attachment 1).

## **Discussion:**

Richmond Police Department staff recommends that the City Council adopt the attached ordinance and Policy 707: Military Equipment Use Policy to ensure that the Richmond Police Department can continue to have access to each of its existing pieces of “Military Equipment.”

## **Military Equipment Use Policy: (Attachment 2)**

The proposed Military Equipment Use Policy (RPD Policy 707) is attached to this agenda report as Attachment 2. The Military Equipment Inventory is incorporated into the Policy through Section 707.4 – Military Equipment Inventory.

## **Current Military Equipment Inventory (Attachment 3):**

The Military Equipment Inventory identifies and describes each type of military equipment; its authorized uses; fiscal impact; rules/laws that govern use of each type of equipment; officer training required before using the equipment; and mechanisms to ensure compliance with the Policy. The “military equipment” detailed below is essential and necessary for the Richmond Police Department to continue protecting the public and to ensure officer safety. In addition, there are no reasonable alternative resources that can achieve the same objective. Below is a breakdown of the military equipment currently in use:

**Unmanned Aerial Systems (UAS) & Robot** – A UAS (commonly referred to as a drone) is an unmanned aircraft of any type that is capable of sustaining directed flight (remote control), and designed for gathering information through imaging, and/or recording. The UAS are means of gathering information without jeopardizing the safety of officers, bystanders, and criminal suspects. The robot is a small-unmanned remote controlled tracked robot that is capable gathering information through imaging, and/or recording.

**Mobile Command Center** - The Mobile Command Center is a 2012 EVI Spartan 40-foot non-armored vehicle used as an Incident Command Post for preplanned events or unplanned critical incidents. It is a vital component to the police mission when major emergencies, natural disasters or special events in the community trigger the mobilization and coordination of significant resources in the field. Its primary use is to facilitate the management and coordination of personnel, communications, and equipment resources at complex incidents.

**Breaching Shotgun & Projectiles** – The breaching shotgun is a Remington 870 Police Magnum shotgun modified to breach (open) secured doorframes and disable deadbolt-locking devices. The associated projectiles (shotgun breaching rounds) are rounds specifically made to fragment (break up) on impact. The use of a breaching shotgun and breaching projectiles are an effective option for specifically trained units within the Richmond Police Department.

**Patrol Rifles & Ammunition** – Rifles are a shoulder fired long gun that fires a rifle caliber cartridge (bullet projectile). The Department approved AR-15 style platform

weapon system is designed to fire a .223/5.56 caliber projectile bullet. To effectively and accurately address the increasing level of firepower and body armor utilized by criminal suspects, the Richmond Police Department provides patrol rifles only to qualified patrol officers. Examples of some general guidelines for deploying the Patrol Rifle include:

- a) An officer reasonably anticipates an armed encounter;
- b) An officer is faced with a situation that may require the delivery of accurate and effective fire at long range;
- c) An officer reasonably expects the need to meet or exceed a suspect's firepower;
- d) An officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage;
- e) An officer reasonably believes that a suspect may be wearing body armor;
- f) When authorized or requested by a supervisor; or
- g) When needed to euthanize an animal

**Diversion Devices (Flashbangs)** – Diversion Devices (flashbangs) is a non-lethal noise/flash device that emits an extremely loud sound and bright light as a distraction. It is ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.

**Chemical Agents** - Chemical agents are canisters or projectile rounds containing chemical agents that are released when deployed by specially trained officers. Chemical agents are to be used exclusively by Special Response Team members. During high-risk tactical incidents, chemical agents can be used to dislodge a suspect from a stronghold location with the least possible danger to citizens, police, and the suspect. Chemical agents can also be used to prevent an armed suspect from accurately firing at citizens and/or officers. They can also be used in limited instances during civil unrest when objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including the officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control.

**Less Lethal Impact Devices & Kinetic Energy Projectiles** – Less lethal devices are tools specifically used to launch impact rounds. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation. Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option. Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions;
- b) The suspect has made credible threats to harm him/herself or others;
- c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers; or
- d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

Some other key provisions of the policy are summarized below:

### **Section 707.3 – Military Equipment Coordinator**

The Chief of Police shall designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to: (a) acting as a liaison to the City Council for matters related to the requirements of this policy, (b) identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the City Council, (c) conducting an inventory of all military equipment at least annually, (d) collaborating with any allied agency that may use military equipment within the jurisdiction of Richmond Police Department, (e) preparing for, scheduling, and coordinating the annual community engagement meeting, (f) preparing the annual military equipment report for submission to the Chief of Police (prior to submission to the City Council) and ensuring the report is made available on the department's website.

### **Section 707.8 – Community Engagement**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

### **Section 707.9 – Community Concerns and Complaints**

Members of the public may register complaints or concerns or submit questions by any of the following means:

1. Email: [AB481@richmondpd.net](mailto:AB481@richmondpd.net)
2. In-person or mail: Richmond Police Department Attn: AB481 Coordinator 1701 Regatta Boulevard, Richmond, CA 94804

The Department is committed to responding to complaints, concerns, and/or questions received and should respond within ten business days of receiving the correspondence. Any complaints shall be referred to the Community Police Review Commission as the independent oversight body. All instances of non-compliance with the policy will also be reported to the City Council via the annual military equipment report.

### **Section 707.10- Military Equipment Training:**

All personnel of the Richmond Police Department are trained in compliance with California Peace Officer Standards & Training (POST) requirements before using any of the equipment that falls within the categories listed in AB 481. Some of the equipment is used exclusively by members of the specially-trained RPD Special Response Team (which includes the Special Weapons & Tactics team, Mobile Field Force, Aerial Scout Team, and the Crisis Negotiation Team), who receive additional specialized training.

## **707.11 – City Council Approval**

The City Attorney and City Council will be notified in writing of any changes to the Policy. All amendments to the Policy must be reviewed and approved by City Council.

### **Stakeholder Engagement/Outreach:**

On April 11, 2022, the Police Department launched a new web page (viewable at <https://www.ci.richmond.ca.us/4248/Assembly-Bill-AB-481---Military-Equipmen> ) dedicated to AB 481. This webpage includes information regarding Assembly Bill 481, community engagement meetings, draft RPD Policy 707 and an inventory report detailing the Police Department's current equipment.

The Richmond Police Department held the following Community Engagement meetings in compliance with AB 481:

1. August 31, 2022: City Council Chambers – Members of the Richmond Police Department met with the public for an in person presentation regarding AB 481. A PowerPoint presentation was provided along with an overview of the police department's military equipment use policy and inventory.
2. September 21, 2022: Zoom meeting – Members of the Richmond Police Department held a community engagement meeting via Zoom. The police department provided a presentation regarding AB 481 and an overview of the department's military equipment use policy and inventory. There were 40 registrants to the Zoom meeting and 19 questions/comments were answered or discussed. The community engagement meeting was recorded and uploaded on the City of Richmond's YouTube page.
3. The Richmond Police Department also introduced a new email for comments, concerns, or questions regarding our equipment policy (AB481@richmondpd.net).

### **DOCUMENTS ATTACHED:**

Attachment 1 – Ordinance

Attachment 2 – Richmond Police Department No. 707: "Military Equipment Use" Policy

Attachment 3 – Military Equipment Inventory

Attachment 4 – Assembly Bill 481