



AGENDA REPORT

Police Department

DATE:	May 7, 2024
TO:	Mayor Martinez and Members of the City Council
FROM:	Bisa French, Chief of Police John Lopez, Captain
Subject:	AB 481 "Military Equipment Use" Annual Report
FINANCIAL IMPACT:	There is no direct financial impact related to this report.
PREVIOUS COUNCIL ACTION:	-First introduced on October 4, 2022 -Passed and adopted by Council on October 18, 2022
STATEMENT OF THE ISSUE:	The Military Equipment policy and ordinance is subject to annual City Council review to determine whether, based on an annual military equipment use report, the standards set forth in the approving ordinance have been met.
RECOMMENDED ACTION:	ADOPT a resolution (1) accepting the 2023 Annual Military Equipment Report, (2) determining that the Police Department's use of military equipment in 2023 complied with the Department's Military Equipment Policy No. 707 and state law, and (3) determining that Policy 707 will be continued without change - Police Department (Bisa French 510-621-1802).

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 labels 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)).

Per Government code 7072(a), the Police Department must submit to the City Council an annual military equipment report for each type of military equipment approved by the council within one year of approval, and annually thereafter for as long as the military equipment is available for use. The annual report must also be made available to the public on the Police Department’s website and 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.

DISCUSSION:

Staff recommends that the City Council review the 2023 Military Equipment Annual Report and renew the authorizing ordinance “Military Equipment Use Policy” to ensure that the Richmond Police Department continue to have access to each of its existing pieces of qualifying equipment, and to affirm the corresponding policies and procedures applicable to maintenance and use of the equipment.

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 web page includes our upcoming community engagement meetings, definitions, updated proposed policy, and an inventory report detailing the Police Department’s current equipment.

AB 481 defines the term “military equipment” to include many pieces of equipment that are designed exclusively for, and commonly used by, local law enforcement agencies

throughout the United States. While the Richmond Police Department possesses some equipment as defined by AB 481, the types of equipment possessed by the Richmond Police Department have been possessed for years (in some cases decades) and are all designed specifically for law enforcement (not military) applications.

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.

For each type of qualifying equipment possessed by the Richmond Police Department, the possession and use of that equipment was already governed by applicable

Department policy, various statutes, and state and federal case law before the state enacted AB 481.

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. 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. In addition, much of the qualifying equipment possessed by the Richmond Police Department is specifically designed for the safe resolution of critical incidents, as opposed to everyday routine patrol deployment.

Military Equipment Use Policy:

The approved policy outlines all qualifying equipment possessed by the Department under the Military Equipment Inventory of the policy.

To safeguard the public's welfare and safety, the qualified equipment already possessed by the Richmond Police department is considered essential and necessary because there is no reasonable alternative resources that can achieve the same objective. Examples include but are not limited to:

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 UASs are deployed to gather information without jeopardizing the safety of officers, bystanders, and criminal suspects. The robot is a small-unmanned remote-controlled tracked robot that is capable of 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. In order to effectively and accurately address the increasing level of firepower and body armor utilized by criminal suspects, the Richmond Police Department provide patrol rifles available to qualified patrol officers as an additional and immediate tactical resource. Examples of some general guidelines for deploying the Patrol Rifle include:

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

Diversion Devices (Flashbangs) – Diversion Devices (flashbangs) are 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. To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term physiological/psychological sensory deprivation to give officers a tactical advantage.

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 SRT team members. Generally, 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. The safety of hostages, innocent persons and officers takes priority

over the safety of subjects engaged in criminal or suicidal behavior. 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,
- 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.

Stakeholder Engagement

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

1. January 25, 2023: Zoom meeting – Members of the Richmond Police Department held a community engagement meeting via Zoom. The Richmond Police Department provided the 2023 AB 481 Military Equipment Annual Report and an overview of the department’s military equipment inventory. The community engagement meeting was recorded and uploaded on the COR’s YouTube page.
2. The Richmond Police Department also re-introduced a new email for comments, concerns, or questions regarding our equipment policy (AB481@richmondpd.net).
3. February 5, 2024: Zoom meeting – Members of the Richmond Police Department held a community engagement meeting via zoom. A presentation was provided regarding the 2023 Annual Military Equipment Annual Report to community members and online attendees. Questions, concerns, and feedback were also collected.
4. March 18, 2024: Zoom meeting – Members of the Richmond Police Department held a community engagement meeting via zoom. A presentation was provided regarding the 2023 Annual Military Equipment Annual Report to community members and online attendees. Questions, concerns, and feedback were also collected.
5. The following supporting documents are easily accessible on the Richmond Police Department’s Military Equipment website:
<https://www.ci.richmond.ca.us/4248/Assembly-Bill-AB-481---Military-Equipmen>
 - a) 2023 Annual Report
 - b) RPD Military Equipment Policy – PM section 707

- c) City Council Ordinance No. 12-22 N.S
- d) RPD's Military Equipment Inventory
- e) First Amendment Assembly Policy
- f) Monthly Military Equipment Use Statistics for 2024

Staff's Recommendation

RPD staff recommends that the City Council adopt a resolution (1) accepting the 2023 Annual Military Equipment Report, (2) determining that the Police Department's use of military equipment in 2023 complied with the Department's Military Equipment Policy No. 707 and state law, and (3) determining that Policy 707 will be continued without change.

DOCUMENTS ATTACHED:

- Attachment 1 – RPD Military Equipment Annual Report
- Attachment 2 – RPD Policy 707
- Attachment 3 – Resolution
- Attachment 4 – PowerPoint Presentation