



Council Agenda Correspondence

DATE: April 19, 2022

TO: Mayor and Council

FROM: Rick Scott, Police Chief

VIA: Derek Johnson, City Manager

SUBJECT: Item # 6e. - Council Correspondence regarding the Ordinance approving the Military Use policy in accordance with AB 481

This correspondence is regarding the item at the April 18, 2022, City Council meeting related to the new legislation governing the use of military equipment by the Police Department titled AB 481. To date no public questions have been received for follow up.

The information and materials were circulated with both the Police Advisory Committee (formerly PACT) and the Police Roundtable. A few questions for clarification on the department's (AB 481) policy. Below is a summary of the questions posed to the department and our response to date which are indicated in *italics*. There will be a few minor changes to our proposed policy based on good feedback received thus far.

1. Q: Who (which position in the department, not necessarily a named individual) will be deemed the Equipment Coordinator?
 - a. *The "Police Administrative Captain" will be the Chief's designee and named in the proposed policy.*
2. Q: What will the process be for acquisition and funding of each piece of equipment?
 - a. *Acquisition: See next question referencing approval below.*
 - b. *Funding: There is no change for funding. All equipment we currently have is essentially funded until replacement is needed. We work through our existing budgetary process for this and request funding when items are expended or worn and become non-serviceable.*
3. Q: What will be the approval process for new equipment?
 - a. *Yes, any NEW (not previously approved) equipment must go back to Council for approval via the ordinance process. We cannot buy anything Council has not reviewed and approved via this process. Ideally, this would happen once a year along with the annual military equipment report. If the need should arise for additional equipment, we did not previously seek approval for, then we will come back to Council.*

4. Q: What will the public process be for filing a complaint and what will be the documentation and follow-up processes for those complaints? Who will manage that process?
 - a. *A specific section will be added to the proposed policy covering the process outlining and referring community members to our existing and robust complaint process which meets the elements of the law. Ideally it is not good practice to restate an existing policy within a policy as this will create opportunities for inconsistencies and significant version control issues and confusion for the public and staff.*
5. Q: AFSC California Healing Justice reviewed policies from other cities. Could you please let us know if any of the concerns below are applicable to our policy?
 - a. *The San Luis Obispo Police Department and its policies are in alignment with AB 481. We reviewed numerous model policies including Sacramento PD. The AFSC document mostly parallels AB 481, but we are strictly following the mandates in the law which is best practice and required.*
 - b. *The first line of AFSC letter states, “Policies complying with AB 481 should describe uses that are **not authorized**.” This is not a direct quote from the law and to better address the question is to have the actual verbiage from AB 481. AB 481 in Chapter 12.8 7070 (d)(2) states “Military equipment use policy means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at minimum, all of the following. (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.” Attachment A of SLOPD’s Policy 709 does this as it lists the proposed and authorized use for each item of equipment.*
 - c. *The next section highlighted is from the AFSC document and not AB 481, “Policies should clearly state to whom deployments will be reported and how records will be kept.” AB 481 Chapter 12.8 7072 specifically outlines what is required by law. ...The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:*
 1. *A summary of how the military equipment was used and 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.*
 7. *SLOPD Policy 709.8 closely follows AB 481 Chapter 12.8 7072 processes for reporting the use of this equipment as required by this law providing this information to Council annually.*
 - d. *The last highlighted section from AFSC's letter states, "Adequate enforcement of military equipment policies requires ordinances with a private right of action." SLOPD Policy 709.3 (e) and 709.9 both outline our policy which ensures community engagement. Additionally, Policy 709.3 (g) ensures that the community can register a complaint or question regarding the use of military equipment. A complaint would follow our established complaint process Policy 1019. This will be better specified in our proposed policy for tomorrow.*
6. Q: On page 1 of the policy, the listing of "military equipment" seems to include all items listed in AB 481. Are there specific items which we would not want for our City and should exclude within the policy? Perhaps specific assault weapons or LRAD's?
 - a. *Yes, all items listed in the law that are not being requested are by default not authorized already. Page 1 of our policy does list all items from AB 481. The reason is Policy 709.1.1 is the "Definitions" section of the policy and we are adhering to the law outlined in AB 481. Our policy recognizes and adopts AB 481 in its entirety.*
 - b. *The Department thoughtfully determined what minimum equipment is necessary to carry out our duties and responsibilities as a department. The Department have been discerning in determining what equipment is needed and are not requesting at this time any new equipment that the department does not already possess and for which the department has governing policies.*
 - c. *The use of equipment and tools outlined in this report is very rare. In these rare and extreme circumstances, it would only be used to protect the welfare of community members and peace officers. For example, we do not have an LRAD and this is something that we found is not appropriate for our community along with many other items we are not requesting. If we continue with the policy as written, an LRAD and many other pieces of military equipment (not requested) will not be allowed for use by the department as intended.*

7. Our comprehensive Use of Force policies were developed over years of robust research and input and most recently in partnership with a nationally well know Jewish activism group Bend the Arc and model policies from the ALCU to ensure we are not using force or any weapons disproportionately against any members of our community to include black, brown, or any marginalized members. The equipment in this law (481) and others are merely tools only, their use is governed exclusively in our stringent and Use of Force policy.
8. The following is an excerpt from the Council Agenda Report that addresses the statement from AB 481: “It is important to note that the use of equipment and tools as outlined in this report is very rare. The Police Department has policies in place to deescalate situations and only uses force as needed to protect public safety. Nevertheless, many of these tools have been tested in the field and are used in very rare and life-threatening situations to protect public health and safety by LEAs to enhance resident and officer safety. The ability to use these items during rare and extreme circumstances are to protect the welfare of residents and peace officers within the City of San Luis Obispo.”

Attachment A - Military Equipment Policy 04/18/2022