



Council Agenda Report

Item 6e

Department: Police
Cost Center: 8001
For Agenda of: 4/19/2022
Placement: Public Hearing
Estimated Time: 30 Minutes

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SUBJECT: INTRODUCTION OF AN ORDINANCE TO APPROVE SAN LUIS OBISPO
POLICE DEPARTMENT MILITARY EQUIPMENT USE POLICY 709

RECOMMENDATION

Introduce an Ordinance entitled, "An Ordinance of the City Council of the City of San Luis Obispo, California, adopting a Military Equipment Use Policy" and approving continued use of military equipment by the agency in accordance with Assembly Bill No. 481.

DISCUSSION

Assembly Bill 481 (Attachment A), codified at Government Code sections 7070 through 7075 requires all law enforcement agencies (LEA) in the State of California to obtain approval from the applicable governing body, via adoption of a "military equipment" use policy by ordinance (Attachment B), prior to the LEA funding, acquiring, or using military equipment. The purpose of this item is for the San Luis Obispo Police Department (SLOPD) is for the City Council adoption of the Military Equipment Use Policy – Lexipol Policy 709 (Attachment C), in order to allow SLOPD to continue to use the vital equipment specified therein.

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.

The term "military equipment", as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be "military equipment" include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long-range acoustic devices, and diversionary devices.

SLOPD is committed to using the most up to date tools and equipment to safeguard the residents of San Luis Obispo. Many of the items deemed to be “military equipment” by AB 481 are in fact deployed by SLOPD, and LEA’s across the country, in order to specifically reduce risk to community members. These items provide peace officers in rare and extreme circumstances with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items at issue in this report, and accompanying Military Equipment Use Policy, also provide SLOPD’s peace officers with vital tools that facilitate compliance with its stringent use of force policy.

There is significant interest in ensuring that law enforcement continues to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools identified below are vital to SLOPD’s mission and will continue to be strictly regulated through internal processes and oversight.

The proposed ordinance seeks to approve the SLOPD’s Lexipol Policy 709, which constitutes SLOPD’s Military Equipment Use Policy. Lexipol 709 Attachment C outlines each item identified in Government Code section 7070, that is currently owned by the City. Lexipol also includes the current use of each item (Attachment A). These particular items, and their stated uses, have been in place prior to the implementation of AB 481. Future acquisitions of any item deemed to be “military equipment” will require a further public meeting, policy update, and Council approval.

The proposed Lexipol 709 safeguards the public’s welfare, safety, civil rights, and civil liberties. Lexipol 709 ensures that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, Lexipol 709.3 requires that SLOPD’s Military Equipment Coordinator will ensure that SLOPD complies with Lexipol 709 and will conduct an annual audit of military equipment. Violations of Lexipol 709 will be corrected when discovered. Members of the public are provided guidance and a process per the policy on how to register complaints for violations. All items which result in a use of force will be investigated, as is already required by existing SLOPD policy.

There are no reasonable alternatives to the items listed below. SLOPD has not discovered alternative items that can achieve the same objectives of officer and civilian safety. Each item’s necessity is further described below:

Unmanned remotely piloted powered aerial vehicle: Unmanned aerial systems (UAS) are necessary as they provide visibility to high-risk locations. Without the use of a UAS, peace officers would have to deploy to high-risk locations which would increase the risk to the officers and members of the public. The UAS system is designed to enter small spaces, such as enclosed structures, as well as to provide overhead observations of wooded areas and other structures located in often times crowded spaces. These UAS are also used to help locate and rescue people in open space areas. There are no known alternatives which could be used to safely access these locations.

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Unmanned remotely controlled ground vehicle: Unmanned ground robots are used for reconnaissance during critical incidents to assist in providing visibility in areas where it would be unsafe to send a peace officer. This system can also be used to defuse or move potentially hazardous items. Not having access to this item would require the use of peace officers to engage in high-risk tasks. There is no known alternative to this system.

Armored personnel carriers, that have a breaching or entry apparatus: Armored vehicles are used to provide ballistic protection to officers and residents during rescue, critical incidents and other hazardous situations. These vehicles allow officers closer access to high-risk situations while substantially reducing the physical risk to the officers and citizens. These vehicles are built on commercial vehicle chassis and are primarily a reinforcement of civilian commercial vehicles. As such, there are no reasonable alternatives to providing the same level of ballistic protection. This vehicle for example was used in Montecito during the mud and debris flows to extract stranded individuals.

Command and control vehicles: The mobile incident command vehicle (MIC) is an unarmored vehicle equivalent to a commercial recreational vehicle. It is equipped with specific communication and audio-visual devices to assist in command and control of a critical incident. This vehicle allows for mobile incident command and use of the Incident Command Systems facilitating the best possible on scene decision-making by key leaders. It provides for mobility, sheltering, and logistical support, restroom facilities and power. There is no known alternative for the MIC which provides the same amount of mobility and support at one location in a quick deploying package. The MIC for example would be used during a hostage event or to stage an Incident Command associated with a mass casualty incident or during a fire, earthquake, or flood.

Shotgun Breaching Tools, slugs: Shotgun breaching tools are used to defeat locked, barricaded or fortified locations allowing officers to conduct rescues or high risk forceable entries. This includes but is not limited to rescuing hostages. These items allow peace officers to quickly enter a structure when time is of the essence. This would include but not limited to an active shooter or kidnapping or hostage situation. In such situations time is of the essence and it would not be feasible to wait for other delayed access to the structure. There are alternatives which are used for low risk and/or non-fortified situations. This includes handheld battering rams. However, this alternative does not afford the same level of protection or speed that such equipment provides when necessary. As such there is no reasonable alternative to these items when they are used and required.

Specialized firearms and ammunition including assault weapons: Patrol rifles, Special Weapons and Tactics (SWAT) rifles, and sniper rifles enable officers, when in compliance with the SLOPD's Use of Force Policy, to address medium to long distance threats, or those threats who are heavily armed, armored or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent residents. There are no known alternatives to these weapons that will provide the same level of distance or precision.

Distraction/ Diversionary Devices: These devices are used as a distraction device in order to disorient or divert the suspect'(s) attention away from sensitive persons or officers. This can allow officers to gain safer access to a high-risk situation, giving extra time to assess and analyze existing threats. This can prevent injury to officers and residents. These devices can often lead to a safer resolution and allow officers to take a resident into custody without force. There is no known alternative to a flashbang when it is necessary.

Chemical Agents and pepper ball: Chemical Agents and pepper ball are less lethal methods used to address violent or riotous crowds when there is a risk of physical safety. They are also used to safely extract a suspect from a fixed location or safely detain a suspect who poses a risk of violence to officers or other persons. This allows peace officers to deploy a less lethal chemical agent into a structure where other weapons would not be capable of doing so. These weapons are less lethal and afford peace officers an added option to avoid lethal force encounters. When these items are reasonable and necessary for use, there is no other alternative. Penal Code 13652 and Department Policy 466 created a new standard in the use of chemical agents, pepper ball, and kinetic energy projectiles (40mm projectile launchers) for responding to public assemblies, protests, or demonstrations. Chemical agents and kinetic energy projectiles to disperse any assembly, protest, or demonstration, shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with the requirements outlined in the law and Department policy.

40mm projectile launchers: The 40mm launcher affords the ability to use less lethal chemical agents and impact munitions. This allows officers to address a threat from a greater distance and provides an alternative option for deadly force when reasonable. When necessary, there is no alternative to these less lethal weapon systems.

Policy Context

The City does not currently have any policies that govern military equipment.

Public Engagement

This item is a business item for the April 19, 2022, City Council meeting and will follow all required postings and notifications. The public will have the opportunity to provide comment on this item at or before the meeting.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act does not apply to the recommended action in this report, because the action does not constitute a "Project" under CEQA Guidelines sec. 15378.

FISCAL IMPACT

Budgeted: Yes
Funding Identified: Yes

Budget Year: 2022-23

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$	\$	\$	\$
State				
Federal				
Fees				
Other:				
Total	\$	\$	\$	\$

There is no impact on the City's General Fund associated with this ordinance. There are no new financial considerations for existing military equipment and munitions. The items deemed as "military equipment" are already in the Police Departments approved operating budget.

ALTERNATIVES

Council could decide not to approve the ordinance. This action is not recommended by staff because there are no reasonable alternatives to the items listed above. SLOPD has not discovered alternative items that can achieve the same objectives for officer and resident safety. Each item's necessity was further described above.

ATTACHMENTS

- A - Copy of Assembly Bill 481 Funding, Acquisition, and Use of Military Equipment
- B - Draft Ordinance adopting Policy 709 Military Use Equipment
- C - Policy 709 Military Use Equipment