

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: May 2, 2022
Reviewed by: NA

SUBJECT: Assembly Bill (AB) 481 Compliance – Second Reading, Pass to Print

REPORT BY: Mala Subramanian, City Attorney
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SUMMARY

The Albany Police Department (“Department”) is asking City Council to adopt an ordinance authorizing a military equipment use policy for the City (“Policy”). Consistent with the Policy, the Department will submit an annual report to the City Council regarding the use of “military equipment”, as that term is defined by Government Code section 7070(c), which will include any complaints received, any internal audit results, or other information about violations of the Policy. Pursuant to Assembly Bill 481 (“AB 481”), City Council is required to adopt the Policy by ordinance and annually review the ordinance adopting the Policy.

STAFF RECOMMENDATION

That Council adopt Ordinance No. 2022-02, approving a Military Equipment Use Policy pursuant to Assembly Bill (AB) 481 – Second Reading, Pass to Print

BACKGROUND

AB 481 was enacted to increase transparency, accountability, and oversight surrounding the use and acquisition of military equipment by state and local law enforcement. It requires law enforcement agencies to obtain approval from the legislative bodies that oversee them before purchasing, raising funds for, or acquiring military equipment, by any means. Law enforcement agencies are also required to obtain approval by their legislative bodies before collaborating with another law enforcement agency in the deployment or use of military equipment within the law enforcement agency’s jurisdiction, or before using any new or existing military equipment not previously approved.

Under AB 481, a governing body approval must take the form of an ordinance adopting a publicly released, written military equipment use policy, which must address a number of specific topics, including the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment, the fiscal impact of their acquisition and use, the legal and procedural rules that govern their use, the training required by any officer allowed to use them, the mechanisms in place to ensure policy compliance, and the procedures by which the public

may register complaints. The governing body must consider a proposed military equipment use policy in open session, and may only approve a military equipment use policy if it makes various specific findings regarding the necessity of the military equipment and the lack of reasonable alternatives.

AB 481 also requires any law enforcement agency that receives approval for the use of military equipment to submit annual reports to the governing body regarding the use of the equipment, any complaints received, any internal audits or other information about violations of the military equipment use policy, the cost of such use, and other similar information.

DISCUSSION

Law enforcement incidents can be unpredictable and complex. In order to de-escalate violent and tense situations at times special equipment, tools or resources may be necessary to reduce the possibility of harm to community members, individuals directly involved in the incident and officers to increase the likelihood of a positive outcome. Items identified as “military equipment” include, but are not limited to, unmanned aerial (Drones) or ground vehicles, bulletproof vehicles, pepper balls, less lethal 40mm projectile launchers and distraction devices. These tools have been tested in the field and are used to help enhance citizen safety, officer safety and reduce the need for escalation of force. They are commonly utilized by law enforcement and their use is considered best practices. The Department has not discovered other reasonable alternatives for these tools that can achieve the same objectives of community member safety and officer safety as these tools are capable of doing.

The mere presence or communicated use of some of these tools can help to de-escalate a situation prior to the need to utilize them and some items can be used for other purposes, such as drones for missing persons or interior searches of a building, or a Long Range Acoustic Device (LRAD) for making announcements during evacuations.

The Department is committed to utilizing current and progressive equipment that helps to safeguard the community and reduce the risk of escalating volatile situations that might rise to the level of a lethal encounter.

The proposed Ordinance No. 2022-02 and Policy #705 provide for safeguards to the public’s safety, welfare, and civil rights and ensures transparency, oversight and accountability measures are in place. As examples, the Department will be required to conduct annual audits of the equipment to ensure compliance with the policy, annually report to City Council the use of this equipment, seek approval prior to purchasing tools deemed to be “military equipment”, inform the public on how to file complaints, voice concerns or submit questions about the use of military equipment and ensure a timely response if received.

On April 18, 2022, Council approved waiving the first reading of and introduced the Ordinance.

ANALYSIS

The authorization to have access to the military equipment identified in the Policy allows the Department to carry out its mission and continue to protect the community, during emergencies, rescues, and other critical incidents.

FINANCIAL IMPACT

Will vary from year to year based on training, staffing and use of equipment required throughout the year.

Attachments

1. Ordinance No. 2022-02
2. Exhibit A to Ordinance - Military Equipment Use Policy #705