



City of Grass Valley  
City Council  
Agenda Action Sheet

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**Title:** Police Military Equipment Use Policy (AB481)

**Recommendation:** That Council 1) Review the proposed Police Department military equipment use policy and associated attachments per the requirements of AB-481; and 2) provide direction to staff related to the Police Departments proposed process to comply with AB-481 and/or any other direction related to the policy and use of equipment as outlined in the staff report and attachments

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**Prepared by:** Alexander K. Gammelgard, Chief of Police

**Council Meeting Date:** March 22, 2022

**Date Prepared:** March 16, 2022

**Agenda:** Administrative

**Background Information:** In last year's legislative process, AB481 was passed by the legislature. It was signed into law by the Governor in September 2021. The text of the bill reads in part as follows:

"Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state [and local] agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency. This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined.

The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement

agency, as provided, that the military equipment does not comply with the above-described standards for approval.”

The bill’s language continues:

“This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency’s internet website, and provide a copy of the policy to the Governor or the Governor’s designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.” This law equally applies to local agencies within the state.

Although the bill references the federal law and surplus military program, the plain statutory language that follows in the bill does not draw a distinction to equipment acquired through that process, of which the Grass Valley Police Department does not have any.

Rather, the bill specifically defines a number of enumerated “military equipment” items listed below [codified in Gov. Code Section 7070(c)]. Those items in bold below are items that the Grass Valley Police Department possesses and/or uses in providing effective law enforcement services in the City.

**(1) Unmanned, remotely piloted, powered aerial or ground vehicles.**

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(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.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

**(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.**

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

**(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.**

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

**(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.**

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

This law requires that the police department has a policy governing the use of military equipment. Before that policy can be formally adopted by the police department, a number of steps must be taken:

- The police department shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body
- The police department shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency’s internet website at least 30 days prior to any public hearing concerning the military equipment at issue
- The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment
- The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) 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.

(D) 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.

There is some flexibility in the process to meet the statutory requirements of the law related to governing body approval, ordinance adoption, and policy implementation. In consultation with the City's legal counsel, the following process is tentatively proposed:

- (03/22/2022) - Report to City Council and presentation of a *proposed* military use policy and inventory (see attached)
- (03/23/2022) - Posting of proposed policy and inventory to the Police Department's webpage
- (04/07/2022) - Public outreach effort and public meeting to engage with the public, share the policy, and use cases for each item of equipment, which will be available for public viewing (not required but desired by the police department)
- (04/26/2022) - Final policy proposed to City Council for Ordinance adoption and policy approval
- (05/01/2022) - Policy implementation into the Police Department's policy manual, including posting the military use policy to the webpage with other police policies already available on the webpage
- (05/10/2022) - Second reading of Ordinance

After adoption of the policy and ordinance as mentioned above, the law requires for annual reporting to the governing body, review of the ordinance, and presentation of a use report, all of which will be posted to the police department's website.

Staff is seeking councils review of the draft policy and direction to take the above steps to comply with the new law. The police department will make any necessary changes to the draft policy based upon information gathered in the process listed above.

**Council Goals/Objectives:** The execution of this action attempts to achieve Strategic Goal #6 - Exceptional Public Safety

**Fiscal Impact:** None. Police Department and legal counsel staff time was utilized to prepare the information, inventory, documentation, policy, and ordinance for this state mandated local program. Those costs were absorbed in the current police department/general government services budgets.

**Funds Available:** N/A

**Account #:** N/A

**Reviewed by:** City Manager

**Attachments:**

Draft/Proposed Military Equipment Use Policy (including attached military equipment inventory and use information)