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CITY of ALBUQUERQUE TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-95 ENACTMENT NO.

SPONSORED BY: Klarissa J. Peña, Cynthia D. Borrego, Brook Bassan

RESOLUTION

Prohibiting The Police Department From Applying For Or Receiving Certain Surplus Military Equipment For Civilian Law Enforcement Use (Peña, Borrego, Bassan)

PROHIBITING THE POLICE DEPARTMENT FROM APPLYING FOR OR RECEIVING CERTAIN SURPLUS MILITARY EQUIPMENT FOR CIVILIAN LAW ENFORCEMENT USE.

WHEREAS, the National Defense Authorization Act of Fiscal Year 1997 allows for US Department of Defense, through the Law Enforcement Support Office in the Defense Logistics Agency (DLA-LESO) to transfer to local law enforcement agencies surplus military equipment for civilian law enforcement use through a program commonly known as the “1033 program”; and

WHEREAS, the DLA-LESO reports that since the program’s inception more than \$7.8 billion in military equipment has been provided to local law enforcement agencies, including the Albuquerque Police Department; and

WHEREAS, In 2014, US Attorney General Eric Holder announced a review of the 1033 program stating, “displays of force in response to mostly peaceful demonstrations can be counterproductive,...it makes sense to take a look at whether military-style equipment is being acquired for the right purposes and whether there is proper training on when and how to deploy it”; and

WHEREAS, studies have shown and diverse groups from the Charles Koch Institute and the American Civil Liberties Union have concluded that the militarization of police erodes public trust and leads to increased police violence, while the use of military grade weapons has not been show to significantly reduce crime; and

WHEREAS, although the 1033 program offers military grade weaponry, armored vehicles, and other lethal equipment not appropriate for use by a municipal police force, the program also offers non-lethal resources such as construction and training supplies and equipment such as first aid kits, cameras and computers; and

WHEREAS, the City of Albuquerque should no longer acquire military equipment designed specifically for warfare associated with national defense, which has no justifiable use in a local law enforcement department like APD, but should not limit its ability to acquire equipment that serves other helpful purposes consistent with APD’s mission and growth toward constitutional community policing; and

WHEREAS, in 2015, President Barack Obama signed Executive Order 13688 limiting the type of military equipment available for local acquisition through the 1033 program, but which was eliminated in 2017; and

WHEREAS, The City should continue to limit its acquisitions under the 1033 program to those items identified as appropriate under Executive Order 13688.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. The Albuquerque Police Department is hereby prohibited from applying for or receiving any surplus military property listed on the 'Prohibited Equipment List' (Recommendation 1.1) or the 'Controlled Equipment List' (Recommendation 1.2) of Presidential Executive Order 13688 for civilian law enforcement use from the US Department of Defense, as identified in Section 2 below.

SECTION 2. Recommendation 1.1 and 1.2 equipment lists:

RECOMMENDATION 1.1 LIST:

- Tracked Armored Vehicles: Vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- Weaponized Aircraft, Vessels, and Vehicles of Any Kind: These items will be prohibited from purchase or transfer with weapons installed.
 - Firearms of .50 Caliber or Higher
 - Ammunition of .50 Caliber or Higher
 - Grenade Launchers: Firearm or firearm accessory designed to launch small
 - Bayonets: Large knives designed to be attached to the muzzle of a rifle/shotgun/long gun for the purposes of hand to hand combat.
 - Camouflage Uniforms: Does not include woodland or desert patterns or solid color uniforms.

RECOMMENDATION 1.2 LIST:

- Manned Aircraft, Fixed Wing: Powered aircraft with a crew aboard, such as airplanes, that use a fixed wing for lift.
- Manned Aircraft, Rotary Wing: Powered aircraft with a crew aboard, such as helicopters, that use a rotary wing for lift.
- Unmanned Aerial Vehicles: A remotely piloted, powered aircraft without a crew aboard.
- Armored Vehicles, Wheeled: Any wheeled vehicle either purpose built or modified to provide ballistic protection to its occupants, such as a Mine Resistant Ambush Protected (MRAP) vehicle or an Armored Personnel Carrier.

These vehicles are sometimes used by law enforcement personnel involved in dangerous operating conditions, including active shooter or similar high threat situations. These vehicles often have weapon firing ports.

- Tactical Vehicles, Wheeled: A vehicle purpose built to operate on and off-road in support of military operations, such as a HMMWV ("Humvee"), 2.5 ton truck, 5 ton truck, or a vehicle with a

breaching or entry apparatus attached. These vehicles are sometimes used by law enforcement in rough terrain or inclement weather for search and rescue operations, as well as other law enforcement functions.

- **Command and Control Vehicles:** Any wheeled vehicle either purpose built or modified to facilitate the operational control and direction of public safety units responding to an incident. Command and Control vehicles provide a variety of capabilities to the incident Commander, including, but not limited to, the provision for enhanced communications and other situational awareness capabilities.

- **Specialized Firearms and Ammunition Under .50 Caliber (excludes firearms and ammunition for service issued weapons):** Weapons and corresponding ammunition for specialized operations or assignment. This excludes service issued handguns, rifles, or shotguns that are issued or approved by the agency to be used during the course of regularly assigned duties.

- **Explosives and Pyrotechnics:** Includes “flash bangs” as well as explosive breaching tools often used by special operations units.

- **Breaching Apparatus (e.g. battering ram or similar entry device):** Tools designed to provide law enforcement rapid entry into a building or through a secured doorway. These tools may be mechanical in nature (a battering ram), ballistic (slugs), or explosive.

- **Riot Batons (excluding service issued telescopic or fixed length straight batons):** Non expandable baton of greater length (generally in excess of 24 inches) than service issued types and are intended to protect its wielder during melees by providing distance from assailants.

- **Riot Helmets:** Helmets designed to protect the wearer’s face and head from injury during melees from projectiles including rocks, bricks, liquids, etc. Riot helmets include a visor which protects the face.

- **Riot Shields:** Shields intended to protect wielders from their head to their knees in melees. Most are designed for the protection of the user from projectiles including rocks, bricks, and liquids. Some afford limited ballistic protection as well. Riot shields may also be used as an offensive weapon to push opponents.

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