City of Piedmont
COUNCIL AGENDA REPORT

DATE: April 15, 2024

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Military Equipment Annual Report for 2023 and Approval of the Renewal of Ordinance 764 N.S. Adopting a Military Use Equipment Policy as Required by State Law.

RECOMMENDATION

Receive the Military Equipment Annual Report for 2023 and Approve the Renewal of Ordinance 764 N.S. Adopting a Military Use Equipment Policy as Required by State Law

EXECUTIVE SUMMARY

As required by State law, the Piedmont Police Department has prepared an annual military equipment report for review by the City Council. The Piedmont Police Department did not receive any complaints or concerns during the 2023 annual reporting period. Additionally, no policy violations were committed, and the Department has no plans to acquire additional military equipment in 2024. State law also requires the Council to review the existing ordinance and policy to: determine the Department's compliance with the policy, and determine whether to renew the ordinance and policy.

BACKGROUND

On September 30, 2021, the Governor of the State of California approved Assembly Bill 481 (codified as Chapter 12.8 of the California Government Code) requiring law enforcement agencies such as the Piedmont Police Department to have a military equipment use policy approved by the City Council prior to requesting, seeking funding, acquiring or using items that it defined as military equipment. Assembly Bill 481 allows the governing body to approve the policy within its jurisdiction only if it determines that the military equipment meets specified standards.

On May 2, 2022, the Piedmont City Council approved Ordinance 764 N.S. approving Piedmont Police Department Policy #710: Military Equipment Use Policy. As required by Assembly Bill 481 and the Ordinance, the Piedmont Police Department must prepare a report on the use of the equipment, any complaints received, any internal audits or other information about the Piedmont Police Department's Military Equipment Use Policy annually. Subsequently, the City Council must then review the Ordinance, Policy and Annual Report, and determine whether the Department's use of the defined military equipment in the past year complied with the Policy, and whether to renew the Ordinance and Policy.

ANALYSIS

As set forth in the Policy, the Piedmont Police Department retains and employs limited equipment that falls under the definition of "military equipment" to safeguard the public. Piedmont Police Department officers and certified instructional staff receive training throughout the year on the use of this equipment approved under the Policy. The Piedmont Police Department did not receive any complaints or concerns during the reporting period. Additionally, no policy violations occurred, and the Department has no plans to acquire additional military equipment in 2024. The Department is required to hold a public meeting within 30 days of submitting and publicly releasing the annual military equipment report. The required meeting has been scheduled for Thursday, May 9, 2024, at 5:00 p.m.

The authorization to continue access to the "military equipment" outlined in the existing Policy and Ordinance allows the Police Department to carry out its mission and continue to protect the public, during emergencies, rescues, and exigent circumstances.

FINANCIAL IMPACT

Costs associated with the renewal of the Ordinance include annual equipment maintenance expense of approximately $2,400 and annual training costs of approximately $7,500. These costs are in the Department's approved budget.

ATTACHMENTS

(1) City of Piedmont Ordinance 764 N.S.

(2) Piedmont Police Policy Section 710 Military Equipment

(3) Military Equipment Annual Report 2023

By: Jeremy Bowers, Chief of Police

ORDINANCE NO. 764 N.S.

AN ORDINANCE ADOPTING A MILITARY EQUIPMENT USE POLICY

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

1) The purpose of this Ordinance is to adopt a military equipment use policy pursuant to California Government Code sections 7070 through 7075.

2) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies.

3) Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the governing body, prior to taking certain actions related to acquisitions, use, collaboration with another agency in the use of, or funding of military equipment as defined in California Government Code section 7070.

4) Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations with respect to a military equipment use policy.

5) Assembly Bill 481, requires that the approval by the governing body be memorialized by an ordinance adopting a military equipment use policy, at a regular meeting held pursuant to open meeting laws.

6) A draft of Piedmont Police Department Policy 710 "Military Equipment" was published on the Piedmont Police Department internet website and provided to the City Council at least 30 days prior to public hearing in accordance with requirements of Government Code section 7071, and the process for submitting the policy for the City Council's consideration was commenced prior to May 1, 2022.

7) The military equipment identified in the Policy 710 "Military Equipment" is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.

8) Piedmont Police Department Policy 710 Military Equipment safeguards the public's safety, welfare, and civil rights and liberties.

9) Piedmont Police Department Policy 710 Military Equipment meets the requirements of California Government Code section 7070, subdivision (d).

10) No prior military use policy has existed in the City of Piedmont that was applicable to the use of military equipment, and the adoption of such policy shall serve to secure future

compliance.

SECTION 2. ADOPTION OF POLICY.

Piedmont Police Department Policy 710 "Military Equipment" is hereby approved and adopted.

SECTION 3. ENVIRONMENTAL REVIEW.

The City Council finds the approval of this ordinance is exempt under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment.

SECTION 4. SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part of it is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, the illegality, invalidity, unconstitutionality, or inapplicability will not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the Ordinance or their applicability to other persons or circumstances.

SECTION 5. PUBLICATION AND EFFECTIVE DATE

This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective thirty (30) days after such second reading and approval by the City Council.

I certify that the foregoing ordinance was passed and adopted as a part of the consent calendar by Resolution 33-2022 at the regular meeting of the City Council of the City of Piedmont on May 16, 2022, by the following vote:

Ayes:	Andersen, Cavenaugh, King, Long, McCarthy
Noes:	None
Absent:	None

Attest: _____
John O. Tulloch, City Clerk

Military Equipment

710.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

710.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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710.2 POLICY

It is the policy of the Piedmont Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment. Policy Section 321, Standards of Conduct is applicable and will be used to ensure compliance of this Policy #710. Any complaint, concern, or question regarding Policy #710 should be directed to the City of Piedmont Chief of Police, available at (510) 420-3010.

710.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.

(b) Conducting an inventory of all military equipment at least annually.

(c) Collaborating with any allied agency that may use military equipment within the jurisdiction of Piedmont Police Department (Government Code § 7071).

(d) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.

(e) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

(f) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

710.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

Table 1:

Weapon Type	Manufacturer	Serial Number	Date Acquired	Purchase Cost	Annual Maintenance Expense	Annual Training Hours
M4 Rifle	Rock River Arms	AC2022459	9/12/2019	$1,000.00	$25.00	12

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M4 Rifle	Rock River Arms	AC2022481	9/10/2021	$1,000.00	$25.00	12
M4 Rifle	Rock River Arms	CM155434	9/2/2021	$1,000.00	$25.00	12
M4 Rifle	Rock River Arms	CM155453	9/9/2021	$1,000.00	$25.00	12
M4 Rifle	Rock River Arms	CM155527	9/12/2019	$1,000.00	$25.00	12
M4 Rifle	Colt	CR220128	3/2/2021	$1,100.00	$25.00	12
M4 Rifle	Colt	CR220144	6/23/2020	$1,100.00	$25.00	12
M4 Rifle	Colt	CR220151	4/29/2019	$1,100.00	$25.00	12
M4 Rifle	Colt	CR219472	9/12/2019	$1,100.00	$25.00	12
M4 Rifle	Colt	CR823604	12/19/2022	$1,100.00	$25.00	12
M4 Rifle	Colt	CR823672	12/19/2022	$1,100.00	$25.00	12
40mm	Penn Arms	GS4786	04/01/2021	$870.35	$25.00	4
40mm	Penn Arms	GS6315	04/01/2021	$870.35	$25.00	4

1. M4 Rifle

(a) Description, quantity, capabilities, and purchase cost

See Table 1.

(b) Purpose: Patrol rifles enable officers when in compliance with the PPD's Use of Force Policy, to address medium to long distance threats, or those threats who are heavily armed, armored or both. In both short and long-distance deployments, patrol rifles allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance or precision.

(c) Authorized use: Situations for use may include, but are not limited to:

- Situations where the member reasonably anticipates an armed encounter.
- When a member is faced with a situation that may require accurate and effective fire at long range.

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- Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- When a member reasonably believes that a suspect may be wearing body armor.
- When authorized or requested by a supervisor.

(d) Training – Officers must successfully complete a CA POST certified 24-hour patrol rifle course as well as regular department firearms training and qualifications as required by law and policy.

(e) Lifespan – Approximately 15 years

(f) Fiscal impact – Annual maintenance expense is estimated at $25.00 for each M4 Rifle. Annual maintenance includes a detailed review of the weapon, audit check and repair of worn parts.

(g) Legal and Procedural Rules - Use of M4 Rifle is subject to requirements of Piedmont Police Policy Section 300: Use of Force and Section 306: Firearms. It is the policy of the Department to utilize the M4 Rifles only for official law enforcement purposes, in accordance with all requirements under State and Federal law, including those regarding the use of force.

2. 40 mm

(a) Description, quantity, capabilities, and purchase cost

See Table 1.

(b) Purpose – The 40mm launcher affords the ability to use less lethal 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.

(c) Authorized use – Situations for use may include, but are not limited to:

- The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- The suspect has made credible threats to harm him/herself or others.
- The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

(d) Training – Sworn members are required to attend an initial 4 hour training and additional annual training thereafter.

(e) Lifespan – Approximately 15 years

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(f) Fiscal impact – Annual maintenance expense is estimated at $25.00 for each 40mm. Annual maintenance includes a detailed review of the weapon, audit check and repair of worn parts. Ammunition costs can very based on the training but are approximately $5000.00 per year.

(g) Legal and Procedural Rules – Use of 40 mm is subject to requirements of Piedmont Police Policy Section 300: Use of Force and Section 303 Control Devices and Techniques. It is the policy of the Department to utilize 40mm only for official law enforcement purposes, in accordance with all requirements under State and Federal law, including those regarding the use of force.

710.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

710.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this Department policy. Military equipment used by other law enforcement agencies that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

710.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment

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approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

710.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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MILITARY EQUIPMENT ANNUAL REPORT 2023

Attachment 3

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Our Vision:

The Piedmont Police Department contributes to community safety and equity by continually exemplifying the best of policing.

Attachment C

INTRODUCTION

On September 30, 2021, the Governor of the State of California approved Assembly Bill 481 (codified as Chapter 12.8 of the California Government Code) requiring law enforcement agencies such as the Piedmont Police Department to have a military equipment use policy approved by the City Council prior to requesting, seeking funding, acquiring or using items that it defined as military equipment. Assembly Bill 481 allows the governing body to approve the policy within its jurisdiction only if it determines that the military equipment meets specified standards.

On May 2, 2022, the Piedmont City Council approved Ordinance 764 N.S. approving Piedmont Police Department Policy #710: Military Equipment Use Policy. As required by Assembly Bill 481 and the Ordinance, annually the Piedmont Police Department must prepare a report on the use of the equipment, any complaints received, any internal audits or other information about the Piedmont Police Department's Military Equipment Use policy. Subsequently, the City Council must then review the Ordinance, Policy and Annual Report, and determine whether the Department's use of the defined military equipment in the past year complied with the Policy, and whether to continue the Ordinance and Policy, take action (by ordinance) to modify the Policy or repeal the Ordinance.

As set forth in the Policy, the Piedmont Police Department retains and employs limited equipment that falls under this legislation and subsequent law to safeguard the public. Piedmont Police Department officers and certified instructional staff receive training throughout the year on the use of this equipment approved under the Policy.

This annual report outlines the Piedmont Police Department's military equipment inventory, usage, and community complaints relative to the use of military equipment from January 1, 2023, through December 31, 2023.

Attachment C

DEFINITIONS

The Piedmont Police Department only utilizes a limited number of the resources listed below.

Definitions of Military Equipment established by California Government Code §7070:

Military equipment includes but is not limited to the following types of equipment:

- Unmanned, remotely piloted, powered aerial or ground vehicles
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached
- Tracked armored vehicles that provide ballistic protection to their occupants
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units
- Weaponized aircraft, vessels, or vehicles or any kind
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition

- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code §30510 and Penal Code §30515, with the exception of standard-issue firearms

- Any firearm or firearm accessory that is designed to launch explosive projectiles

- Noise-flash diversionary devices and explosive breaching tools

- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray

- Taser Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs)

- Kinetic energy weapons and munitions (e.g. 40MM launcher, bean bag shotgun, foam tipped projectiles)

- Any other equipment as determined by a governing body or a state agency to require additional oversight

INVENTORY - Item 1 - 40 MM launchers and rounds - Quantity = 2

Background

40mm launchers are utilized by the department personnel as a less lethal tool to launch impact rounds. The department utilizes the Penn Arms GL1-40mm single shot launcher. The cost of each unit was $870.35. The annual maintenance cost of each unit is $25.00.

The 40mm single shot launcher is a tactical launcher that features a fixed stock and an adjustable Integrated Front Grip (IFG) with a light rail. It will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. It will launch a 40 mm less lethal round up to 130 feet and is only authorized to be used by trained personnel.

The 40 mm ammunition used by the Piedmont Police Department is the 4557 Foam Baton. The Foam Baton is a spin-stabilized projectile. Although it is extremely accurate and consistent, accuracy is dependent on the launcher, using open sights vs. an improved sight, environmental conditions, and the operator. Effectiveness depends on many variables, such as distance, clothing, stature, and the point where the projectile impacts. The current supply consists of 75 rounds with a per unit price of $19.00.

Attachment C

Purpose

The 40 mm launcher affords the ability to use less lethal 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.

Authorized Use

Situations for use may include, but are not limited to:

- The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- The suspect has made credible threats to harm themselves or others.
- The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- There is probable cause to believe that the suspect has already committed a crime of violence ad is refusing to comply with lawful orders.

Annual Training

Piedmont police officers utilizing 40mm less lethal chemical agents or impact rounds are trained in their use by Peace Officer Standards and Training (POST) certified less lethal instructors for four hours on an annual basis.

2023 Use

The 40 mm was only used in training this year. No complaints or concerns were raised. There were no policy violations that occurred related to the 40mm launchers. Internal audits found the launchers to be in good working order and the serial numbers matched what is recorded on file. The annual cost of approximately $50 was spent to service the launchers and $80 was spent, per officer, on training with the foam baton ammunition. The department does not plan to acquire any new launchers in 2024 and has an adequate number of foam baton rounds for the training.

Attachment C

Item 2 – Patrol Rifles - Quantities: Rock River Arms (5), Colt (6)

Background

The patrol rifles are designed to be fired from shoulder level, having a long spirally grooved barrel intended to make bullets spin and thereby have greater accuracy over a long distance.

The department currently deploys Rock River and Colt rifles. They cost approximately $1,100 each and we have 11 on hand. Two of the current rifles were converted to be used with simunition rounds for training purposes.

We use WINCHESTER 5.56X45mm NATO 55 Grain Full Metal Jacket M193 Centerfire Rifle Ammunition. We do buy in bulk to create cost savings and during the last purchase, a box of 1000 rounds was procured in 2022 for $234.

Purpose

Patrol rifles enable officers, when in compliance with the PPD's Use of Force policy, to address medium to long distance threats or those threats who are heavily armed, armored or both. In both short and long-distance deployments, patrol rifles allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance or precision.

Attachment C

Authorized Use

Situations for use may include, but are not limited to:

- Situations where the member reasonably anticipates an armed encounter.
- When a member is faced with a situation that may require accurate and effective fire at a long range.
- Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- When a member reasonably believes that there may be a need to fire on a barricaded person or person with a hostage.
- When a member reasonably believes that a suspect may be wearing body armor.
- When authorized or requested by a supervisor.

Lifespan

The rifles have a life span of approximately 15 years. They are evaluated quarterly by a trained armorer for a functionality assessment.

Fiscal Impact

Annual maintenance is approximately $25.00 for each rifle.
Prior to using the rifle, officers must be certified by a POST instructor in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification quarterly.

Legal and Procedural Rules

Use is established under department policy 306. It is the policy of the Piedmont Police Department to utilize rifles only for law enforcement purposes and pursuant to State and Federal law, including the use of force.

Attachment C

Annual Training

Officers that are authorized to carry a rifle must complete a POST certified 24-hour patrol rifle course, as well as attend regular department firearms training and qualifications as required by law and policy. An officer attending a rifle operators' course will discharge 1000-1500 rounds per course. A qualified rifle officer will discharge a total 500-750 rounds annually spread over the quarterly training sessions.

2023 Use

The rifles were only used in training this year. No complaints or concerns were raised. There were no policy violations that occurred related to the rifles. Internal audits found the rifles to be in good working order and the serial numbers matched what is recorded on file. The annual cost of approximately $25 per rifle was spent to service the rifles and $75 was spent, per officer, on ammunition related to training and qualifying. The department does not plan to acquire any new rifles in 2024.

CONCLUSION

This Annual Military Equipment Report reaffirms the Piedmont Police Department's commitment to providing transparency and information to our community and elected officials in addition to ensuring compliance with California State law. The equipment, resources, and training outlined in this report allow Piedmont Police Officers to better serve and protect our community, enhance the safety of the public and officers, and bring critical incidents to a safe resolution.