

Military Equipment

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, use, training and reporting requirements of military equipment in accordance with California Assembly Bill 481 (codified at Government Code § 7070, et seq.). Additionally, this policy outlines the fiscal impact and specific descriptions of existing military equipment within the Department's inventory.

708.1.1 DEFINITIONS

The definitions provided in Government Code section 7070 apply to this policy, including the following:

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

Military equipment – Means the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles. This definition applies to small Unmanned Aircraft Systems (sUAS) and SWAT robots.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this definition.
- 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. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this definition.
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- 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. However, items designed to remove a lock, such as bolt cutters or a handheld, one-person ram, are specifically excluded from this definition.
- Firearms and ammunition of .50 caliber or greater, However, standard-issue shotguns and standard-issue shotgun ammunition are specifically excluded from this definition..
- Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Penal Code sections 30510 and 30515, with the exception of standard-issue service weapons and ammunition of less than .50 caliber that are issued to sworn members.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls" including munitions containing tear gas or OC. However, standard, service-issued handheld pepper spray is specifically excluded from this definition.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

- The following projectile launch platforms and their associated munitions: 40 mm projectile launchers, "bean bag," rubber bullet, and specialty impact munitions (SIM) weapons.
- Any other equipment as determined by the governing body or a state agency to require additional oversight.
- "Military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

708.2 POLICY

It is the policy of the Carlsbad Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

708.3 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) Acting as liaison to the governing body for matters related to the requirements of this policy.
- b) 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.
- c) Conducting an inventory of all military equipment at least annually.
- d) Collaborating with any other law enforcement agency that may use military equipment within the jurisdiction of Carlsbad Police Department (Government Code § 7071).
- e) 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.
- f) 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).
- g) 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.

708.4 MILITARY EQUIPMENT INVENTORY

Appendix A contains the descriptions, purposes and authorized uses, fiscal impact, training requirements, and legal and procedural rules governing each authorized use for all military equipment of the Department.

708.5 MILITARY EQUIPMENT USE POLICY 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 use policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment use 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 use 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.

708.5.1 REPLACEMENT OF APPROVED EQUIPMENT

~~The police department will replace, as needed, any existing approved military equipment with the equipment of the same make and model, or if unavailable, with substantially similar equipment which will be subject to the same requirements as the replaced equipment.~~

The Police Department may acquire additional equipment and munitions of the types (or substantially similar types) contained in Appendix A. The quantity for each type of equipment and munition in Appendix A is not intended as a cap on the number that may be acquired.

708.6 ANNUAL MILITARY EQUIPMENT REPORT AND COMMUNITY ENGAGEMENT

The Chief of Police or the authorized designee shall submit a military equipment report to the governing body for each type of military equipment approved within one year of approval of this policy, and annually thereafter, for as long as the military equipment is available for use (Government Code § 7072). The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

- a) A summary of how the military equipment was used and the purpose of its use.
- b) A summary of any complaints or concerns received concerning the military equipment.
- c) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response, consistent with all applicable state employee privacy laws.

- d) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- e) The quantity possessed for each type of military equipment.
- f) If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment

The Chief of Police or the authorized designee shall make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. Within 30 days of submitting and publicly releasing the annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask question regarding the annual military equipment report and the Department's funding, acquisition, or use of military equipment. The governing body will determine, based on the annual military equipment report, whether each type of military equipment identified in the report has complied with the standards for approval, as set forth in Government Code § 7071, subdivision (d). If the governing body determines that a type of military equipment identified in the annual military equipment report has not complied with the standards as set forth in Government Code § 7071, subdivision (d), it may either disapprove a renewal of the authorization for that type of military equipment or require modifications to this military equipment use policy in a manner that will resolve lack of compliance.

708.7 COORDINATION WITH OTHER JURISDICTIONS

Department members are required to adhere to this Military Equipment Use policy and all applicable Carlsbad Police Department policies and procedures, regardless of operational jurisdiction. Members of 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.

708.8 PUBLIC COMPLAINT PROCEDURE

Complaints related to the application or use of military equipment shall be handled in accordance with Department Policy 1020 - Personnel Complaints.