Military Equipment

714.1 PURPOSE AND SCOPE

This Department policy establishes guidelines for the use, training, approval, and procurement of existing military equipment and future military equipment acquisitions in accordance with California Assembly Bill 481 (AB 481), codified in California Government Code § 7070-7075. Additionally, this policy outlines the fiscal impact and specific descriptions of existing military equipment within the Department's inventory.

714.1.1 BACKGROUND

On September 30, 2021, the Governor of the State of California approved AB 481 requiring law enforcement agencies to obtain approval of a military equipment policy by the applicable governing body (The Chula Vista City Council). The Department is required to seek approval of this military equipment use policy from the governing body at a regular open meeting prior to the Department taking certain actions relating to the funding, acquisition, or use of military equipment, as defined.

The bill allows the governing body to approve the policy only if it determines that the military equipment meets specified standards. The policy is subject to annual review by the governing body to determine whether, based on an annual military equipment report, the standards set forth in the approving policy have been met. The governing body may renew the authorizing policy, disapprove authorization for particular military equipment where standards have not been met, or require modifications to this military equipment use policy to address any non-compliance with standards.

Finally, the bill requires publication of this military equipment use policy and the annual military equipment report on the Department's website. The military equipment use policy must be posted on the website at least 30 days prior to the City Council meeting.

714.1.2 DEFINITIONS

Pursuant to AB 481, the following definitions are applicable **only** to the Department's current military equipment inventory and potential future military equipment acquisitions for operational needs. (For a detailed list, refer to California Government Code § 7070, for "military equipment" as defined within the assembly bill.)

Governing body - The Chula Vista City Council.

Military equipment - Items defined by California Government Code § 7070(c)(1) through (c)(16). The definition 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. 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.

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- 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. (Note that none of the Chula Vista Police Department's drones are weaponized).
- Battering rams, slugs, and breaching apparatus 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 definition.
- 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 under California Penal Code § 30510 and California Penal Code § 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.
- 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.

Military equipment use policy - refers to this Department policy and means a publicly released, written document governing the use of military equipment by the Department that addresses, at a minimum, all of the following:

- A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- The purposes and authorized uses for which the Department proposes to use each type of military equipment.
- The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- The legal and procedural rules that govern each authorized use.
- The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any sworn member is authorized to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

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- The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- The procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the Department will ensure that each complaint, concern, or question receives a response in a timely manner.

Law enforcement agency means any of the following:

1. A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.
2. A sheriff's department.
3. A district attorney's office.
4. A county probation office.

714.1.3 MILITARY EQUIPMENT USAGE GUIDELINES

The Chula Vista Police Department retains and employs a wide variety of equipment, some of which is defined as military equipment by California Government Code § 7070, to assist in maintaining public safety by providing the highest quality police services to our community. Military equipment shall only be used by a Department employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training (POST), has been completed, unless exigent circumstances arise. Any military equipment acquired and authorized by the Department must be necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety and be reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety (California Government Code § 7071 (d)(1)(A)(C)). Additionally, it is the policy of the Chula Vista Police Department that its military equipment be used to safeguard the public's welfare, safety, civil rights, and civil liberties (California Government Code § 7071(d)(1)(B)).

The Chula Vista Police Department recognizes that critical incidents are unpredictable and can be very dynamic in nature. A variety of military equipment options can greatly assist incident commanders, officers, and specific units in bringing those incidents to a swift resolution in a safe manner. While this procedure is wide-ranging, it is not all inclusive. There may be instances wherein unpredictable critical incidents demand the need for incident commanders to authorize military equipment to be used in a manner not outlined within this policy. In scrutinizing those particular instances, the judgment of the incident commander influenced by the totality of the circumstances, public safety, officer safety, civil rights, and information available at the time will be used. It is incumbent upon incident commanders, supervisors, individual officers, and specific units to recognize the particular circumstances wherein military equipment should be employed to enhance the safety of the public and officers.

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714.2 POLICY

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

714.3 MILITARY EQUIPMENT COORDINATOR

The Professional Standards Unit manager or their designee will act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

1. Acting as liaison to the governing body for matters related to the requirements of this policy.
2. Identifying the Chula Vista Police 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.
3. Conducting an annual inventory of all military equipment at least annually.
4. Preparing for, scheduling, and/or coordinating the annual community engagement meeting to include:
    (a) Ensuring the details of the meeting are publicized.
    (b) Preparing for public questions regarding the Department's funding, acquisition, and use of the equipment.
5. Preparing the annual military equipment report for submission to the Chief of Police, and ensuring that the report is made available on the Department's website (California Government Code § 7072).
6. 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.

714.4 MILITARY EQUIPMENT INVENTORY

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

(See attachment A for the Chula Vista Police Department military equipment list)

714.5 APPROVAL

The Chief of Police or their 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 their 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 regular meeting of the City Council concerning the military equipment at issue (California Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (California Government Code § 7071):

1. Requesting military equipment made available pursuant to 10 USC § 2576a. This section is also commonly referred to as the Defense Logistics Agency 1033 Program. The Chula Vista Police Department does not participate in this program,

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2. 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.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
5. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
6. 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.
7. Acquiring military equipment through any other means.

714.6 ANNUAL MILITARY EQUIPMENT REPORT

Upon approval of a military equipment policy, the Chief of Police or their designee shall submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (California Government Code § 7072).

The Chief of Police or their designee shall also make each annual military equipment report publicly available on the Chula Vista Police Department website for as long as the military equipment is available for use. The report shall include all information required by California Government Code § 7072 for the preceding calendar year for each type of military equipment in the Chula Vista Police Department inventory. The military equipment report shall, at a minimum, include the following information from the immediate previous calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose for its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response, consistent with state law and employee privacy restrictions.
4. The total annual cost for each type of military equipment.
5. The quantity possessed for each type of military equipment.
6. If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type 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 by AB 481. 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 by AB

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481, it may either disapprove a renewal of the authorization for that type of military equipment or require modifications to this military equipment use procedure in a manner that will resolve lack of compliance.

714.7 COMMUNITY ENGAGEMENT

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 Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment. (California Government Code § 7072(b)).

714.8 COORDINATION WITH OTHER JURISDICTIONS

On occasion, the Department may be required to assist other law enforcement agencies in a formal Law Enforcement Mutual Aid Request (LEMA) or support with day to day operational collaboration (i.e. pursuits, investigative unit assistance, joint law enforcement operations, etc.). The specific guidance and requirements for mutual aid is governed under PDM 352 - Outside Agency Assistance.

In certain mutual aid or operational collaboration circumstances, it may be necessary for sworn Department members to utilize military equipment in order to fulfill an assigned mission (i.e. civil unrest, SWAT requests, barricaded suspects in a vehicle, etc.). When sworn Department members utilize military equipment in instances of mutual aid or law enforcement collaboration, the following shall apply:

1. Department members are required to adhere to the Department's Military Equipment policy and **all** policies and procedures outlined within the Chula Vista Police Department's Policy and Procedures Manual, regardless of operational jurisdiction.
2. Should the Chula Vista Police Department request mutual aid from another law enforcement agency within the City of Chula Vista and military equipment is required during the course of the response, the following shall apply:
    (a) The Chula Vista Police Department shall remain in charge of the overall incident command.
    (b) The Incident Commander or their designee shall brief the supervisor from the assisting agency and inform them of the mission, enforcement posture, and any pertinent information related to the incident.
    (c) The assisting agency will be expected to adhere to their respective policies and procedures, particularly those governing the use of military equipment.
    (d) If the Incident Commander is informed of or witnesses the utilization of military equipment by an assisting agency inconsistent with the guidelines set forth in this procedure, the Incident Commander may elect to cancel the request for mutual aid or re-assign the assisting agency to a different support mission.

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714.9 MILITARY EQUIPMENT USAGE ACCOUNTABILITY

1. The use of military equipment is subject to individual Department policies and procedures. It is incumbent upon incident commanders, supervisors, and individual officers to recognize the specific circumstances wherein military equipment should be employed to enhance the safety of the public and officers and to bring an incident to a safe resolution.
2. Department members are bound to adhere to Department policies and procedures, in addition to state and local laws and ordinances when employing the use of the military equipment at any time. Violations of the law or Department Policies or Procedures may result in criminal or administrative investigations and/or actions.
3. Administrative investigations concerning complaints related to military equipment will be conducted in accordance with PDM 1019 - Personnel Complaints.

714.10 MILITARY EQUIPMENT MAINTENANCE AND INVENTORY

All military equipment should be properly maintained and stored as set forth by Department policies and procedures or in the absence of that, by manufacturer guidelines.

714.11 TESTING AND EVALUATION OF MILITARY EQUIPMENT FOR POTENTIAL FUTURE ACQUISITION

While the Department's current inventory of military equipment is wide ranging and versatile, advancements in technology, tactics, and operational effectiveness may necessitate the expansion or complete replacement of certain items of military equipment in the current catalog.

From time to time, certain equipment vendors and/or manufacturers may loan certain military equipment items to the Department for testing by various units to conduct assessments involving feasibility of use, cost analysis, effectiveness, and training efficacy. This process is commonly referred to as "Testing and Evaluation" (T & E). During the testing and evaluation process, various units and/or subject matter experts conduct assessments of the equipment being tested and opine the viability of whether or not an item of military equipment should be considered for Department use. Military equipment that is being tested shall **not** be used operationally without approval from the Chief of Police or their designee.

The following limitations shall apply should the Department receive military equipment for the testing and evaluation process:

1. Only similar military equipment within the Department's current military equipment inventory may be used for Testing and Evaluation. Examples might include but are not limited to:
    (a) Similar firearms by a manufacturer other than those approved in the current inventory
    (b) Similar UAS platforms featuring a different make and/or model other than those approved in the current inventory.
    (c) Similar diversionary devices or chemical agents featuring a different make and/or model other than those in the current inventory, etc.

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2. Military equipment that is **not** similar to the Department's current military equipment inventory must be approved through the governing body and Chief of Police or their designee, prior to the acquisition for the testing and evaluation process. Examples include but are not limited to:
    (a) New military equipment technology not currently approved or currently in use by the Department.
    (b) Firearms as defined under military equipment that operate with a different weapons platform other than what is approved or currently in use by the Department (i.e. bullpup platform, higher caliber weapon than what is in the current inventory, etc.).

Military equipment items that have been assessed and recommended for final approval after undergoing the testing and evaluation process must be approved by the governing body and the Chief of the Police or their designee prior to be being formally acquired for Department inventory and operational use.

714.12 MILITARY EQUIPMENT COMPLAINTS AND INQUIRIES

In some instances, the application and use of military equipment can cause questions and/or concerns for members of the community. It is of vital importance that community members' questions regarding the application and use of military equipment are addressed.

The Chula Vista Police Department is committed to full and fair investigation of citizen complaints. As such, the Department has sound internal procedures for thorough and impartial investigations of citizen complaints. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency maintained by the Department.

1. Complaints directly related to the application or use of military equipment shall be handled in accordance with PDM 1019 - Personnel Complaints. Individuals from the public may file complaints in any form, including in writing, by email, in person, or by telephone.
2. The Professional Standards Unit will maintain statistical data concerning the number and types of complaints regarding military equipment.
3. The Chula Vista Police Department values open communication and transparency. Community questions and/or concerns regarding the application and use of specified military equipment should be addressed in the following manner:
    (a) Via the Department's website (in the "Contact Us" section), the public can communicate specific military equipment related questions, comments, or concerns to the Department. The Department will respond to the submissions at least quarterly.
    (b) At pre-determined community engagement meetings related to military equipment.
    (c) At City Council meetings related to military equipment.

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(d) In all other circumstances, the public should be directed to the Department Military Equipment policy and Annual Military Equipment Report available on the Chula Vista Police Department website.

714.13 MAINTENANCE OF MILITARY EQUIPMENT SUPPLY LEVELS

Under rare and limited circumstances, the Department might use military equipment (ie. chemical agents, diversionary devices, etc.) at a level higher than anticipated due to unpredictable events such as riots, mutual aid, pro-longed critical incidents, etc. The City Manager or their designee may approve the purchase of supplies to renew Department inventories, without the approval of the governing body, under these rare and exigent circumstances. The purchase of these supplies shall only be for equipment that has been previously approved by the governing body. The Military Equipment Coordinator or their designee shall report these purchases via the annual military equipment use list required by California Government Code § 7072.

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