

## Military Equipment

### 706.1 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).

#### 706.1.1 DEFINITIONS

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

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

**Military equipment** – California Government Code section § 7070 (c) defines Military Equipment as any of 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 subdivision.
- 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 subdivision.
- 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 ram designed to be operated by one person, are specifically excluded from this subdivision.
- Firearms of .50 caliber or greater. However, standard-issue shotguns are specifically excluded from this subdivision.
- Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- 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 state agency.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.

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- "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullets and specialty impact munition (SIM) weapons.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.
- Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designed as prohibited or controlled by the federal Defense Logistic.

### **706.2 APPROVAL**

The Chief of Police or the authorized designee has obtained approval from the governing body, the Tiburon Town Council, by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee submitted the military equipment policy to the Tiburon Town Council and made it available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). This military equipment policy was approved by the Tiburon Town Council on September 21, 2022 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.

### **706.3 POLICY**

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

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### **706.4 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 allied agency that may use military equipment within the jurisdiction of Tiburon 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.

### **706.5 MILITARY EQUIPMENT INVENTORY**

The list linked below constitutes a list of qualifying equipment for the Department:

<https://policy.lexipol.com/app/agency/view-file/4012204049181493504?manualId=1220031120144703450>

### **706.6 COORDINATION WITH OTHER JURISDICTIONS**

Law enforcement agencies responding to a call for mutual aid or who participate in collaboration or coordination with the Tiburon Police Department within the Town of Tiburon shall adhere to their own policies on the use of military equipment.

### **706.7 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 Tiburon Town Council 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 (Government Code § 7072).

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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, which is the following information:

- (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.
- (d) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade and other 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 law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Tiburon Town Council will use the Annual Military Equipment Report as a mechanism to ensure the Tiburon Police Department's compliance with this Military Equipment Use Policy, and to help it determine whether to approve, revise, or revoke components of the Policy for the subsequent year. The Tiburon Town Council shall be notified no later than 30 days from the acquisition date of any new military equipment.

### **706.8 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.

### **706.9 POLICY COMPLIANCE**

Government Code section 7070 requires that this policy specify the mechanisms to be used by the Department to ensure compliance with this policy. Complaints regarding violations of this policy are subject to investigation and discipline in accordance with Policy 1009, and other policies of the department related to officer discipline. Complaints, questions, or other inquiries can be made as described below in the Public Involvement section. Further, the Chief will designate a Military Equipment Coordinator, whose responsibilities are described herein, which will include assisting with ensuring compliance with this policy.

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### **706.10 PUBLIC INVOLVEMENT**

Pursuant to California Government Code § 7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment in this policy by any of the following means:

- (a) Via phone call to: (415) 789-2801
- (b) Via mail sent to: Tiburon Police Department, 1155 Tiburon Blvd., Tiburon, CA 94920
- (c) Via email at: [www.townoftiburon.org/268/Personnel-Complaints-Commendations](http://www.townoftiburon.org/268/Personnel-Complaints-Commendations)

The Tiburon Police Department is committed to responding to complaints, concerns, and/or questions received through any of the above methods in a timely manner.