

Fresno Police Department Policy Manual

Military Equipment Funding, Acquisition & Use Policy

706.1 POLICY

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

706.1.1 PURPOSE & SCOPE

This policy establishes guidelines for the acquisition, funding, use and reporting of “military equipment” as the term is defined in Government Code section 7070. This policy is provided to fulfill the obligations set forth in Assembly Bill No. 481. These obligations include, but are not limited to, seeking approval on specific items deemed to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

706.2 DEFINITIONS

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

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

- (a) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (b) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- (c) 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.
- (d) Tracked armored vehicles that provide ballistic protection to their occupants.
- (e) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (f) Weaponized aircrafts, vessels, or vehicles of any kind.
- (g) Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- (h) Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- (i) 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 handguns.
- (j) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (k) Noise-flash diversionary devices and explosive breaching tools.
- (l) Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- (m) Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- (n) Kinetic energy weapons and munitions.
- (o) Any other equipment as determined by a governing body or a state agency to require additional oversight.

706.3 PHILOSOPHY

The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

706.4 MILITARY EQUIPMENT USE CONSIDERATIONS

The military equipment acquired and authorized by the Department is:

- (a) Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (b) Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (c) 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, has been completed, unless exigent circumstances arise.

706.4.1 MILITARY EQUIPMENT COORDINATOR

The Chief of Police shall 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 Fresno Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting.
- (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.

706.4.2 MILITARY EQUIPMENT INVENTORY

The Military Equipment Coordinator shall maintain an up-to-date and comprehensive Military Equipment Inventory in compliance with the provisions of AB 481. This inventory shall be available for public review on the City of Fresno Police Department's website.

706.5 GOVERNING BODY APPROVAL

The Chief of Police, or 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 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.

706.5.1 REQUESTS FOR ADDITIONAL EQUIPMENT

All requests made for equipment that fall under the definition of Military Equipment § AB 481, which is in addition to existing Council approved and authorized equipment, will require City Council approval prior to the purchase or use of that equipment. This section shall not apply if the request were merely to replace an existing piece of equipment.

If a member of the department wishes to purchase new equipment that falls under the definition of Military Equipment § AB 481, they shall, prior to purchasing, submit an AB 481 Equipment memo through their chain of command to the Support Division Deputy Chief for approval. If approved the member is responsible for seeking City Council approval.

706.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment shall not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

706.7 ANNUAL REPORT (AB 481)

Upon approval of a military equipment policy, the Chief of Police, or 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 (Government Code § 7072). The Chief of Police, or 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.

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 AB 481 COMPLAINT PROCESS

It is the policy of the Fresno Police Department that there are legally enforceable safeguards, including transparency, oversight, and accountability measures, in place to protect the public's welfare, safety, civil rights, and civil liberties. To ensure that the military equipment authorized pursuant to AB 481 is being utilized in a manner consistent with the approval of the governing body, a citizen complaint process is established consistent with the mandates established in AB 481.

706.9.1 INQUIRIES AND COMPLAINTS

The Fresno Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members. It is also the policy of this Department to ensure that the community can report misconduct without concern for reprisal or retaliation. The Department encourages the public to come forward with any relevant facts pertaining to complaints or violations of policies against its members.

The Department will accept and address all inquiries and complaints of the misuse of Military Equipment in accordance with Policy 1020, Personnel Complaints, as well as the provisions outlined in this policy.

706.9.2 ACCESSING AB 481 COMPLAINT FORMS

Fresno Police Department complaint forms are maintained in a clearly visible location at the following Police locations:

- (a) Fresno Police Headquarters, 2323 Mariposa Mall, Fresno, CA. 93721
- (b) Southwest Policing District Station, 1211 Fresno St. Fresno, CA. 93706
- (c) Northwest Policing District Station, 3074 W Shaw Ave. Fresno, CA. 93711

- (d) Northeast Policing District Station, 1450 E Teague Ave. Fresno, CA. 93720
- (e) Central Policing District Station, 3502 N. Blackstone Ave. Fresno, CA. 93726
- (f) Southeast Policing District Station, 224 S. Argyle Ave. Fresno, CA. 93727

Fresno Police Department Complaint forms may also be available at these other police, government, community facilities:

- (a) Fresno City Hall, City Manager's Office, 2600 Fresno St. Fresno, Ca 93721
- (b) Hinton Community Center, 2385 S. Fairview St. Fresno, CA 93706
- (c) Mosqueda Community Center, 4670 E. Butler Ave. Fresno, CA 93702
- (d) Ted C. Willis Community Center, 770 N. San Pablo Ave. Fresno, CA 93728
- (e) Stone Soup Fresno, 1345 E Bulldog Lane, Fresno, CA 93710

Electronic complaint forms are also available at the City of Fresno website at www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/

706.9.3 AB 481 COMPLAINT PROCESS AUDITING

The Department will conduct annual reviews of the complaint process. The audit will ensure the availability, acceptance, and completion of the complaint process is done in a timely, effective, and unbiased manner. The audit will be submitted to the Chief of Police for review. The results of this audit will be included in the AB 481 Annual Audit Report.