



STAFF REPORT

City Council

Meeting Date:

5/13/2025

Staff Report Number:

25-066-CC

Consent Calendar:

Consider and adopt a resolution renewing Chapter 2.70 of the Menlo Park Municipal Code entitled military equipment use ordinance, Menlo Park Military Equipment Use Policy, and finding that the 2024 Menlo Park Police Department annual military equipment report complies with the standards of approval set forth in Menlo Park Police Department policy 708.7 and Government Code §7071(d)

Recommendation

Adopt a resolution renewing Chapter 2.70 of the Menlo Park Municipal Code entitled military equipment use ordinance (Attachment A), Menlo Park Military Equipment Use Policy (Attachment B), and finding that the 2024 Menlo Park Police Department annual military equipment report (Attachment D) complies with the standards of approval set forth in Menlo Park Police Department policy 708.7 and Government Code §7071(d).

The Menlo Park Police Department had no incident during the reporting period where any equipment listed under the Military Equipment Use Policy was used in the field. There is no request to acquire additional equipment, other than the potential need to replenish inventory levels of any consumables (munitions) should they be used in a future incident.

Policy Issues

California Assembly Bill 481 (AB 481 – Codified in Government Code §7070, et seq.), Menlo Park Municipal Code 2.70, and Menlo Park Police Department Policy 708.7 require the City Council to conduct an annual review of the military equipment use ordinance, Military Equipment Use Policy and annual report and vote on whether to renew the ordinance.

Background

On Sept. 30, 2021, California AB 481 was signed into law. Subsequently, California Government Code §§7070, 7071, and 7072 were adopted to codify the requirements set forth in AB 481 (Attachment C).

AB 481 requires a law enforcement agency to obtain the approval of its governing body, through the adoption of a Military Equipment Use Policy, by ordinance at a regular meeting held pursuant to specified open meeting laws, before taking certain actions relating to the funding, acquisition or use of military equipment, as defined. The bill allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards.

Pursuant to AB 481, May 10, 2022, the City Council adopted Ordinance No. 1089, adding Chapter 2.70 to

Menlo Park Municipal Code, which approved a military equipment use policy for police services, and included an inventory of the City's military equipment. AB 481 requires the governing body to annually review the ordinance for consideration to be renewed. If City Council determines, based on an Annual Military Equipment Report prepared by the law enforcement agency that the military equipment does not comply with the above-described standards for approval, it may either disapprove a renewal of the authorization for a type of military equipment or amend the military equipment use policy. The Menlo Park Police Department 2024 annual military equipment report is attached for review (Attachment D).

California Government Code §7070 provides a list of types of equipment that are to be considered "Military Equipment" for purposes of compliance with AB 481 and the Government Code. It is important to note that the Menlo Park Police Department does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed uniquely for military use. However, Menlo Park Police Department, like many police agencies nationwide, does possess some types of equipment that are listed in §7070. Additionally, the Menlo Park Police Department participates in a regional Special Weapons and Tactics (SWAT) team, which possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to the Government Code.

It is also important to note that while the equipment listed in Attachments B and D meets the definitions of "Military Equipment" in alignment with this law, this equipment remains the same equipment that has been available to handle high-risk situations that occasionally arise in this jurisdiction up to this point in time, as part of the regular public safety business of this agency. Further, every law enforcement jurisdiction in the state of California is bringing similar reports before their local governing bodies to comply with this law. There is nothing unique in Menlo Park Police Department's compliance effort that is significantly different from any of our partnering police agencies statewide.

Analysis

Discussion of proposed Military Equipment Use Policy

California Government Code §7070(d) defines a Military Equipment Use Policy as:

"Military equipment use policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

1. A description of each type of military equipment, the quantity sought its capabilities, expected life span, and product descriptions from the manufacturer of the military equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
3. 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.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the commission on peace officer standards and training that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed 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.
6. 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.
7. For a law enforcement agency, 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

law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

California Government Code §7071(b) requires that the police department post to its website (Attachment E) the Military Equipment Use Policy and any proposed revisions at least 30 days before any public hearing concerning the policy. The police department complied with this requirement by posting the policy (Attachment B), to its public website April 9.

California Government Code §7071(d) stipulates that the City Council shall only approve the Military Equipment Use Policy if it determines all of the following:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

California Government Code §7070(e) establishes that the police department is responsible for delivering to the City Council an annual military equipment report, which the City Council can utilize to confirm compliance with the Military Equipment Use Policy and the accompanying military equipment use ordinance (Chapter 2.70.050.) This requirement is also reflected in Menlo Park Police Department Policy 708.7.

The Menlo Park Police Department has not obtained any equipment from military surplus programs, known as 1033 Programs, it does not possess any tactical equipment that it has obtained from the military, and it does not possess any equipment that was designed for military use.

That said, California Government Code §7070 outlines 16 categories of equipment classified as "Military Equipment" under AB 481 and related statutes. The Menlo Park Police Department does possess and utilize certain items from this list. Specifically, the department possesses equipment falling under only two (2) of the defined categories—a total of four (4) items, along with associated munitions.

A full list of the 16 Military Equipment categories defined by Government Code §7070, as well as the specific items held by the Menlo Park Police Department, can be found in Attachment D.

Please note that Category 16 is not an actual piece of equipment and therefore is not listed in Attachment D. Under AB 481, Category 16 is defined as: "Notwithstanding paragraphs (1) through (15), 'military equipment' does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency."

In addition to equipment possessed solely by Menlo Park Police Department, the department participates in a regional SWAT team in collaboration with the police departments of Redwood City and Atherton. The regional SWAT Team jointly possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to California Government Code §7070. To be clear, the equipment possessed by SWAT is not purchased, owned, or maintained by the Menlo Park Police Department, but such equipment could be used within the City of Menlo Park if SWAT is deployed, and such equipment is utilized for an appropriate incident. While nearly all possible rare circumstances requiring an elevated tactical response might be handled using the equipment listed in Attachments B and D, we must acknowledge that an

extraordinary and exigent circumstance could unpredictably arise that might require additional equipment not listed. Should this department encounter a circumstance that requires the exigent acquisition, borrowing, and/or use of equipment not listed, this department will:

1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
2. If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
3. Include the military equipment in the police department's next annual military equipment report.

The City's Military Equipment Use Policy includes detailed information for each type of Military Equipment listed, as required by California Government Code §7070. This information includes the equipment's capabilities, its purpose/authorized uses, the legal/procedural rules governing its use, and the training required of staff before its use.

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:

1. Via email to: policechief@menlopark.gov
2. Via phone call to: 650-330-6300
3. Via mail sent to: Menlo Park Police Department
Attn: Military Equipment Use Coordinator
701 Laurel St.
Menlo Park, CA 94025
4. 4. Via online at: menlopark.gov/Police (Attachment F)

Staff have submitted the Military Equipment Use Policy (Attachment B), as required by law, for City Council's consideration to renew by resolution (Attachment A).

Impact on City Resources

There is no impact on City resources.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§15378 and 15061(b)(3) as it proposes an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

California Government Code §7071(b) requires that the police department post to its website the Military Equipment Use Policy at least 30 days before any public hearing concerning the policy. The police department posted the policy (included as Attachment B) to its public website April 9,, as well as the annual report (included as Attachment D).

Attachments

- A. Resolution

- B. Menlo Park Police Department Lexipol Policy 708 – Military Equipment Use
- C. Text of AB 481
- D. Menlo Park Police Department annual military equipment report
- E. Hyperlink – Military Equipment Use Policy website:
menlopark.gov/Government/Departments/Police/Transparency/Department-policies/Assembly-Bill-481-military-equipment-policy
- F. Hyperlink – Complaint form: menlopark.gov/Government/Departments/Police/Compliments-and-complaints

Report prepared by:
Wilson Lau, Police Commander

RESOLUTION NO. XXXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK PURSUANT TO GOVERNMENT CODE §7071 RENEWING CHAPTER 2.70 OF THE MENLO PARK MUNICIPAL CODE ENTITLED MILITARY EQUIPMENT USE ORDINANCE, MENLO PARK MILITARY EQUIPMENT USE POLICY 708 AND FINDING THAT THE ANNUAL MILITARY EQUIPMENT REPORT COMPLIES WITH THE STANDARDS OF APPROVAL SET FORTH IN GOVERNMENT CODE §7071(d)

WHEREAS, Government Code §7071 *et. seq.* codifies Assembly Bill 481 (effective Jan. 1, 2022) and requires legislative bodies to adopt ordinances approving military equipment use policies before law enforcement agencies can continue to engage in activities related to the use of military equipment; and

WHEREAS, the Menlo Park Police Department has “military equipment” in its inventory and engages in critical public safety activities in coordination with other jurisdictions on police related matters, including safeguarding the public’s welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid and responding to emergencies; and

WHEREAS, in exigent circumstances, there is sometimes the need to deploy military equipment from or lend military equipment to other local jurisdictions to promote the safety and security of community members; and

WHEREAS, May 10, 2022, the City Council of the City of Menlo Park adopted Ordinance No. 1089, adding Chapter 2.70 to the Menlo Park Municipal Code, which approved Military Equipment Use Policy 708 for police services, and included an inventory (report) of the City’s military equipment; and

WHEREAS, Menlo Park Military Equipment Use Policy 708 sets forth a military equipment use policy that is consistent with the Police Department’s current practices, complies with all the requirements of the Government Code and the Menlo Park Municipal Code, will continue to ensure ongoing regulation and compliance with the law going forward and will continue to provide a means of community engagement and transparency regarding use of military equipment by the Department; and

WHEREAS, the Government Code and the Menlo Park Municipal Code require the City Council to conduct an annual review of the Military Equipment Use Ordinance and Policy and vote on whether to the renew the Ordinance and Policy; and

WHEREAS, pursuant to Government Code §7072(b), the Menlo Park Police Department has made the annual military equipment use report publicly available to allow the general public to review in order to discuss and ask questions regarding the report; and

WHEREAS, the City Council has conducted its annual review of the Military Equipment Use Ordinance contained in Chapter 2.70 of the Menlo Park Municipal Code as well as its annual review of Menlo Park Military Equipment Use Policy 708; and

WHEREAS, the City Council has also conducted its annual review of the military equipment report prepared and submitted pursuant to §7072 of the Government Code and has considered the requirements contained in §7071(d) of the Government Code; and

WHEREAS, public notice has been provided in accordance with applicable law; and

WHEREAS, the City Council has reviewed and desires to renew Chapter 2.70 of the Menlo Park Municipal Code and the Menlo Park Military Equipment Use Policy 708; and

WHEREAS, the City Council desires to find that the annual military equipment report complies with the standards of approval set forth in subdivision (d) of Government Code §7071 because of the following:

1. Authorizing the use of military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The acquisition and use of this equipment is part of the Menlo Park Police Department's overall approach to Critical Incident Management, Use of Force, De-Escalation and public safety. The equipment will enable department members to properly respond to both planned and unplanned events efficiently and effectively.
2. The Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties by ensuring required reporting, the opportunity for community engagement and feedback, and transparency and oversight regarding the acquisition and use of specified military equipment in the City of Menlo Park.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time of the use.

NOW, THEREFORE, THE MENLO PARK CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

Section 1. All of the statements and facts set forth above in the recitals are true and correct and incorporated herein by this reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this ordinance.

Section 2. The City Council finds that Chapter 2.70 of the Menlo Park Municipal Code and Menlo Park Military Equipment Use Policy 708 are exempt from the provisions of the California Environmental Quality Act ("CEQA") because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and are not a "project," as defined in Section 15378 of the CEQA Guidelines.

Section 3. The City Council has reviewed Chapter 2.70 of the Menlo Park Municipal Code and hereby renews that Chapter without change.

Section 4. The City Council has reviewed Menlo Park Military Equipment Use Policy 708 and hereby renews the Policy without change.

Section 5. The City Council has reviewed the 2024 annual military equipment report and finds that it complies with the standards of approval set forth in subdivision (d) of Government Code section 7071.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held

to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the thirteenth day of May 2025, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of May, 2025.

Judi A. Herren, City Clerk

Military Equipment

708.1 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).

The Menlo Park Police Department ("MPPD") does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. MPPD also does not possess any equipment through military surplus programs such as the 1033 Program. Notwithstanding the foregoing, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing board for approval.

California Government Code § 7070 provides a list of equipment types that are considered to be "military equipment" for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the MPPD, or reasonably likely to be deployed in Menlo Park by other law enforcement partners.

708.1.1 DEFINITIONS

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

"Department" means the City of Menlo Park Police Department.

"Governing body" means 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.

Military Equipment

- 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.

708.2 POLICY

It is the policy of the Menlo Park 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 allied agency that may use military equipment within the jurisdiction of Menlo Park 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.

Military Equipment

708.4 MILITARY EQUIPMENT INVENTORY

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

- Attachment 1: qualifying equipment that is owned and/or utilized by the Menlo Park Police Department. [See attachment: ATTACHMENT 1 - MPPD Military Equipment Use Policy - Equipment of MPPD.pdf](#)
- Attachment 2: qualifying equipment that is not owned or regularly utilized by the MPPD, but which is known to be owned and/or utilized by law enforcement agencies which the MPPD collaborates and/ or participates for law enforcement purposes. [See attachment: ATTACHMENT 2 - MPPD Military Equipment Use Policy - Applicable to Regional SWAT.pdf](#)

708.5 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.

708.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should 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.

Military Equipment

708.7 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 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.

708.8 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.

Assembly Bill No. 481

CHAPTER 406

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with
Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) 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.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY
EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “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 department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, 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.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) 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.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) 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 a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) 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.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) 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.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed 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.

(6) 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.

(7) For a law enforcement agency, 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 law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(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 territorial jurisdiction of the governing body.

(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 pursuant to this chapter.

(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 by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. 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:

(1) A summary of how the military equipment was used and the purpose of 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.

(4) 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.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(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 a law enforcement agency or another state 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 pursuant to this chapter.

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

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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2024 Menlo Park Police Department Annual Military Equipment Report - Equipment Owned by the Menlo Park Police Department										
	Equipment Category - Listed categories as defined by California Government Code §7070 and MPMC 2.70.020	Description	Summary of how equipment was used and purpose of use	Summary of Complaints Received	Result of any internal audits or violations of military equipment use policy	Acquisition Costs	Annual Costs	Funding source for following calendar year	Quantity Possessed	Intended additions in the next year
1	Unmanned, remotely piloted, powered aerial or ground vehicles.	N/A	N/A	None	Each use of the listed items is assessed and monitored for adherence to policy and training. No violations were identified during the review period.	N/A	N/A	N/A	None	None
2	Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
3	High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half (2 1/2) ton trucks, five (5) ton trucks, or wheeled vehicles that have a breaching or entry	N/A	N/A	None		N/A	N/A	N/A	None	None
4	Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.	N/A	N/A	None		N/A	N/A	N/A	None	None
5	Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.	N/A	N/A	None		N/A	N/A	N/A	None	None
6	Weaponized aircraft, vessels, or vehicles of any kind.	N/A	N/A	None		N/A	N/A	N/A	None	None
7	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 (1) person, are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
8	Firearms of 0.50 caliber or greater. However, standard issue shotguns are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
9	Ammunition of 0.50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
10	Specialized firearms and ammunition of less than 0.50 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 0.50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.	N/A	N/A	None		N/A	N/A	N/A	None	None
11	Any firearm or firearm accessory that is designed to launch explosive projectiles.	N/A	N/A	None		N/A	N/A	N/A	None	None
12	"Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.	Pepperball Launcher TAC-SA PRO	The purpose of this equipment is to provide a less lethal option for law enforcement use where the employment of lethal force is prohibited or undesirable, and the use of chemical agents provides a safer alternative to gaining compliance where allowed by policy and law.	None		\$1,200	Potential for need for replacement parts due to routine maintenace or wear estimated to be less than \$1,000.	Operating Budget	2	Potential to acquire additional rounds to replace any use of existing inventory to maintain a repository of up to approx. 500 rounds
		Live-X Pepperball		None		\$1,550		Operating Budget	250	
13	Taser Shockwave, microwave weapons, water cannons, and the long range acoustic device (LRAD).	N/A	N/A	None		N/A		N/A		None
14	The following projectile launch platforms and their associated munitions: forty (40) millimeter projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.	PENN Arms PLG65 40mm Launcher	The purpose of this equipment is to provide a less lethal option for law enforcement use where the employment of lethal force is prohibited or undesirable, and the use of impact munitionss provides a safer alternative to gaining compliance where allowed by policy and law.	None		\$2,000	Potential for need for replacement parts due to routine maintenace or wear estimated to be less than \$1,000.	Operating Budget	2	Potential to acquire additional rounds to replace any use of existing inventory to maintain a repository of 50 rounds
		Defense Technology 40mm Exact Impact Sponge Round		None		\$1,600		Operating Budget	50	
15	Any other equipment as determined by a governing body or a state agency to require additional oversight.	N/A		None		N/A		N/A	None	