

Agenda Item 1.B

RECOMMENDATION

**Staff recommends that the City Council adopt a resolution (1) Approving the annual Military Equipment Report and finding that each type of military equipment identified in the annual report complies with the standards set forth in Government Code section 7071(d); and (2) Renewing, pursuant to Government Code section 7071(e), Ordinance 1327 authorizing the continued use of the military equipment specified in Tracy Police Department Policy 708 – Military Equipment.**

EXECUTIVE SUMMARY

This agenda item provides the annual military equipment report required by Government Code Sections 7071, subsection (e)(2), and Section 7072, and summarizes the Tracy Police Department's use of military equipment. This item also requests City Council's approval of the annual report finding that each type of military equipment identified in the report has complied with the standards set forth in Government Code section 7071, subsection (d). Lastly, this item requests renewal of the previously adopted Ordinance 1327 for the continued use of the military equipment specified in Tracy Police Department Policy 708 – Military Equipment.

BACKGROUND AND LEGISLATIVE HISTORY

On September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill 481 (AB 481), regarding the use of military equipment by law enforcement agencies. California Government Code sections 7070 through 7075 codified AB 481, requiring all law enforcement agencies to adopt an ordinance approving a military equipment use policy that governed the purchase, acquisition, and use of the military equipment specified within the law. AB 481 also allowed law enforcement agencies to continue using already purchased and acquired military equipment if the governing body (City Council) adopted an ordinance approving the continued use no later than May 1, 2022. Last year, the Tracy Police Department complied with these new requirements and Ordinance 1327 was introduced at a regular meeting of the Tracy City Council on April 5, 2022, and adopted on April 19, 2022.

In addition to the above, AB 481 requires the Tracy Police Department to submit an annual report to the City Council to obtain continued approval of the military equipment policy by City Council vote.

ANALYSIS

Government Code Section 7072, subsection (a), requires the following information be reported annually to City Council:

1. *A summary of how the military equipment was used and the purpose of its use:*

The Tracy Police Department created its Military Equipment Policy to specify how each piece of equipment is to be used and for what purpose. The policy attached herein covers the approved uses and all uses for the reporting period.

2. *A summary of complaints or concerns received concerning the military equipment:*

There have been no complaints regarding the equipment.

3. *The results of any internal audits, any information about violations of the military equipment use policy, and any action taken in response:*

All equipment is accounted for and there were no known policy violations regarding the equipment's use.

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:*

Refer to attached Tracy Military Equipment Policy, section 708.4 – Military Equipment Inventory, subsections 1 through 9. The Council-approved policy contains all the above information.

All ongoing costs are from funds already approved as part of the general fund appropriations by City Council for the Tracy Police Department annually.

5. *The quantity possessed of each type of military equipment:*

Refer to attached Tracy Military Equipment Policy, section 708.4 – Military Equipment Inventory, subsections 1 through 9. The Council-approved policy contains all the above information.

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:*

Some of the specified equipment is used on an ongoing basis for training and real-world events to maintain supply levels throughout the year. This includes ammunition, less lethal munitions, distraction devices, and Chemical Agents / Smoke Canisters. The Tracy Police Department will be making these purchases with existing funds throughout the year in alignment with approved amounts.

The approved policy, in section 704.4.1, allows for the maintenance of supply levels and to increase the number of specified equipment previously approved by City Council should the Chief of Police deem it necessary. An example of this would be if there were to be additional sworn peace officer's positions approved, there would be a need to purchase additional rifles training ammunition, etc. The approved policy authorized the Chief of Police to purchase this type of equipment at his discretion without additional approval required under AB 481.

FISCAL IMPACT

There is no additional fiscal impact for this item. All funding is approved as part of the annual budget appropriation for the Tracy Police Department by City Council.

PUBLIC OUTREACH/INTEREST

Within 30 days of the acceptance of this report, the Tracy Police Department will hold a community outreach event specific to the use of military equipment.

COORDINATION

None.

FOLLOW-UP

The informational report is required annually for continued authorization to use the specified equipment and will be posted on the Tracy Police Department's website.

STRATEGIC PLAN

This item relates to the City Council's Public Safety Strategic Priority Goal 1 – Partner with and engage the community to address public safety concerns by helping increase communication with residents regarding crime information and prevention.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution (1) Approving the annual Military Equipment Report and finding that each type of military equipment identified in the annual report complies with the standards set forth in Government Code section 7071(d); and (2) Renewing, pursuant to Government Code section 7071(e), Ordinance 1327 authorizing the continued use of the military equipment specified in Tracy Police Department Policy 708 – Military Equipment.

Prepared by: Trevin Freitas, Police Lieutenant

Reviewed by: Sekou Millington, Chief of Police  
Sara Cowell, Director of Finance  
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

Attachments:

Attachment A: Ordinance 1327 – Adopting a Military Equipment Use Policy Pursuant to California Assembly Bill 481

Attachment B: Tracy Police Department Lexipol Policy 708 – Military Equipment

ORDINANCE 1327

AN ORDINANCE OF THE CITY OF TRACY ADOPTING A MILITARY EQUIPMENT USE POLICY PURSUANT TO CALIFORNIA ASSEMBLY BILL 481

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill 481 (AB 481), regarding the use of military equipment by law enforcement agencies, and

WHEREAS, AB 481, codified by California Government Code section 7070 through 7075, requires that all law enforcement agencies obtain approval from the applicable governing body, by ordinance, adopting a military equipment use policy prior to taking certain actions relating to the funding, acquisition, or use of military equipment, and

WHEREAS, Government Code section 7070 defines the term "military equipment", and

WHEREAS, the proposed military equipment policy is found within the Tracy Police Department Military Equipment Use Policy (Lexipol Policy #708), and

WHEREAS, AB 481 requires that the law enforcement agency make the military equipment use policy available on the law enforcement agency's website at least 30 days prior to the public hearing relating to the adoption of the military use equipment policy, and

WHEREAS, the Tracy Police Department Military Equipment Use Policy was published on the Tracy Police Department's internet website on March 4, 2022, at least 30 days before the public hearing, and

WHEREAS, the Tracy Police Department Military Equipment Use Policy meets the requirements of Government Code section 7070, subdivision (d).

NOW THEREFORE, the City Council of the City of Tracy does ordain as follows:

**SECTION 1:** The City Council hereby determines the following:

- A. The military equipment identified in the Tracy Police Department's Military Equipment Use Policy (Lexipol Policy #708) is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety;
- B. Tracy Police Department's Military Equipment Use Policy (Lexipol Policy #708) will safeguard the public's welfare, safety, civil rights, and civil liberties;
- C. Prior military equipment use complied with the military equipment use policy that was in effect at the time; and
- D. Tracy Police Department's Military Equipment Use Policy (Lexipol Policy #708) is hereby approved and adopted.

**SECTION 2:** If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective

of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 3: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 4: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov’t. Code §36933.)

\* \* \* \* \*

The foregoing Ordinance 1327 was introduced at a regular meeting of the Tracy City Council on the 5th day of April, 2022, and finally adopted on the 19th day of April, 2022, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

SIGNED: Nancy D. Young, Mayor ATTESTED:

Adrienne Richardson, City Clerk

A copy of the Tracy Police Department Military Equipment Use Policy (Lexipol Policy #708) can be viewed upon request by making an appointment with the City Clerks Office

# 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).

### 708.1.1 DEFINITIONS

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

**Governing body** – 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.
- 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.

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### **708.2 POLICY**

It is the policy of the Tracy 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 Professional Standards and Training Lieutenant is designated as the 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 Tracy Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
  1. Publicizing the details of the meeting.
  2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

### **708.4 MILITARY EQUIPMENT INVENTORY**

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

1. Mobile Incident Command Post (CP): A vehicle used as a mobile office that provides shelter, access to Department computer systems, and restrooms.
  - (a) Description, quantity, capabilities, and purchase cost: LDV USA (Custom Build) vehicle, cost: \$ 369,045.00 using a grant from the Office of Homeland Security in 2006, quantity: (1). The CP can be utilized for operations involving the Crisis Response Unit (CRU), critical incident management, preplanned large events, searching for missing persons, natural disasters, and community events.
  - (b) Purpose: Used during specific circumstances such as a critical incident, large events, natural disasters, or community events.

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- (c) Authorized Use: Only staff trained in the deployment and operations consistent with policy, law, and training are authorized to operate the CP. Staff must also obtain a Class B drivers' license from the California Department of Motor Vehicles (DMV). The CP is authorized for use during but not limited to critical incidents, emergencies, community events, and natural disasters.
- (d) Lifespan: 20 years on chassis and vehicle structure. IT systems currently outdated.
- (e) Fiscal Impact: Annual maintenance cost is approximately \$4,000.
- (f) Training: The driver/operator shall receive training in the safe handling of the vehicle and obtain and maintain a class B license from the California DMV.
- (g) Legal and Procedural Rules: It is the policy of this Department to use the CP for official law enforcement purposes in compliance with California state law and the policies of the Tracy Police Department.

2. Armored Vehicle: Commercially produced wheeled vehicle armored vehicle utilized for law enforcement purposes.

- (a) Description, quantity, capabilities, and purchase cost: LENCO BEARCAT is an armored rescue vehicle that seats 10-12 personnel with open floor plan that allows for rescue of down personnel. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor, quantity: 1, cost: \$281,000; \$181,000 from general fund and \$100,000 from COPS grant in 2012.
- (b) Purpose: Used in response to critical incidents to enhance officer and community safety. In addition, allows for scene containment, stabilization to assist in resolving incidents and as a rescue vehicle to evacuate officers and community members from potential harm.
- (c) Authorized Use: The use of armored vehicles shall only be authorized by a sworn supervisor, watch commander, or incident / tactical commander. Armored vehicles shall be used by only officers trained in its deployment and in a manner consistent with training and Department policy.
- (d) Lifespan: 25 years.
- (e) Fiscal Impact: Annual maintenance cost is approximately \$3,500.
- (f) Training: All drivers must be attend a department orientation training. No special license is required by California DMV.
- (g) Legal and Procedural Rules: It is the policy of this Department to utilize armored vehicles only for legitimate law enforcement purposes and in a manner consistent with State and Federal law.

3. Transport Vehicle: Commercially produced wheeled van utilized for law enforcement purposes.

- (a) Description, quantity, capabilities, and purchase cost: 2017 LDV Freightliner transport vehicle, quantity: 1, used to transport personnel and equipment to active scenes where the Crisis Response Unit is deployed and often deployed along with the LENCO



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BEARCAT' cost: \$206,000 (\$140,000 from State COPS Grant / \$66,000 from Asset Forfeiture) in 2016.

- (b) Purpose: Used in response to critical incident to transport personnel and equipment to critical incidents to enhance officer and community safety; often deployed with the Lenco BEARCAT.
- (c) Authorized Use: The use of the transport vehicle shall only be authorized by a sworn supervisor, watch commander, or incident / tactical commander. Armored vehicles shall be used by only officers trained in its deployment and in a manner consistent with training and Department policy.
- (d) Lifespan: 25 years.
- (e) Fiscal Impact: Annual maintenance cost is \$3,500.00.
- (f) Training: All drivers must attend a department orientation training. No special license is required by California DMV.
- (g) Legal and Procedural Rules: It is the policy of this Department to utilize the vehicle only for legitimate law enforcement purposes and in a manner consistent with State and Federal law.

4. Unmanned Aerial System (UAS): An unmanned aircraft and associated equipment necessary to control it remotely.

- (a) Description, quantity, capabilities, and purchase cost:
  - 1. DJI Mavic 2 Enterprise Advanced 909 grams, quantity 7; M2EA thermal camera, M2EA Visual Camera, spotlight, strobe with a flight time of approx. 28 minutes. Cost: \$6,240 / each.
  - 2. DJI Mini 2 249 grams, quantity: 4, 1/2" CMOS Visual Camera 12mp 4k video with a flight time of approx. 30 minutes. Cost: \$599 / each.
  - 3. DJI Mavic Air 570 grams, quantity: 2; 1/2" CMOS visual camera 48mp 4k video with a flight time of approx. 34 minutes. Cost: \$988 / each.
  - 4. Brinc Lemur 2.4 lbs, quantity: 1, 1080P HD Camera with IR sensitivity, spotlight, window breach attachment, and cellular two-way communications with a flight time of approx. 31 minutes. Cost: \$ 8,999 / each,
- (b) Purpose: To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:
  - 1. major collision investigations.
  - 2. search for missing persons.
  - 3. natural disaster management.
  - 4. crime scene photography.
  - 5. SWAT, tactical or other public safety and life preservation missions.
  - 6. In response to specific requests from local, state or federal fire authorities for fire response and/or prevention.

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- (c) Authorized Use: Only assigned operators who have completed the required training shall be permitted to operate any UAS during approved missions.
- (d) Lifespan: 5 - 10 years.
- (e) Fiscal Impact: Annual maintenance and battery replacement expected to be \$4,000 - \$6,000.
- (f) Training: All Department UAS operators are licensed by the Federal Aviation Administration for UAS operation. In addition, each operator must attend ongoing department training.
- (g) Legal and Procedural Rules: Use is established under Tracy Police Department policy 610, FAA Regulation 14 CFR Part 107, It is the policy of the Tracy Police Department to utilize UAS only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

5. Robots: A remotely controlled unmanned machine that operates on the ground which is utilized to enhance the safety of the community and officers.

- (a) Description, quantity, capabilities, and purchase cost: AVATAR Tactical Robot; quantity 1; enhances the compatibilities of the Crisis Response Unit by allowing to quickly and safely inspect dangerous situations without sending personnel. AVATAR has live feed video and audio with the capability to record; cost: \$ 15,132.
- (b) Purpose: Used remotely to gain visual and audio access to clear areas in high risk situations.
- (c) Authorized Use: Used by trained members of the Crisis Response Unit.
- (d) Lifespan: 8 - 10 years.
- (e) Fiscal Impact: Annual maintenance cost of between \$500.
- (f) Training: Training conducted internally by the Crisis Response Unit.
- (g) Legal and Procedural Rules: It is the policy of the Tracy Police Department to utilize the robot for official law enforcement purposes and in a manner that reflect the privacy of the community pursuant to Federal and State law.

6. Less Lethal Shotguns / Breaching Shotguns / 40MM Launchers and Munitions: These systems deploy less-lethal impact projectiles and breaching rounds.

- (a) Description, quantity, capabilities, and purchase cost:
  - 1. Shotguns and 40MM Launchers:
    - (a) Less-Lethal Remington 870 Shotgun: quantity 23; The Remington 870 Less Lethal Shotgun is used to deploy the less lethal 12-gauge Super-Sock Beanbag Round up to a distance of 75 feet. The range of the weapon; system helps to maintain space between officers and a suspect reducing the immediacy of the threat which is a principle of De-escalation; cost \$425/each.
    - (b) Breaching Remington 870 Shotgun: quantity 2; This weapon allows for breachers to safely utilize shotgun breaching rounds in order to destroy

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deadbolts, locks, and hinges. The stand-off device that is attached to the end of the barrel allows for positive placement of the shotgun into the correct position and vents gases to prevent overpressure. cost \$425/each.

- (c) 40MM Defense Technology Launcher (single shot); quantity 7; The 40MM Single Launcher is a single shot launcher. It will fire standard 40mm less-lethal ammunition up to 4.8 inches in length. It will launch a 40MM less lethal round up to 131 feet; cost: \$1000/each.
- (d) 40MM Defense Technology Multi-Launcher; quantity 2; The 40MM Tactical 4-Shot Launcher is low-profile and lightweight, providing multi-shot capability in an easy to carry launcher; cost \$2,000 / each.

#### 2. Munitions:

- (a) CTS 12-Gauge Super-Sock beanbag round, cost: \$5, quantity: 2000. A less lethal 2.4-inch 12-gauge shotgun round firing a ballistic fiber bag filled with 40 grams of lead shot at a velocity of 270-290 feet per second (FPS). CTS Super-Sock rounds are discharged from a dedicated 12-gauge shotgun that is distinguishable by an orange butt stock and fore grip. This round provides accurate and effective performance when fired from the approved distance of not fewer than five (5) feet. The maximum effective range of this munition is up to 75 feet from the target
  - (b) Royal Arms TESAR #1 orange cap 275 grain copper frangible breaching round; fired from a dedicated breaching shotgun and is used to destroy deadbolts, locks, and hinges; quantity 150; cost: \$125 per box of 25 rounds.
  - (c) Royal Arms TESAR #2 black cap 425 grain copper frangible breaching round; fired from a dedicated breaching shotgun and is used to destroy deadbolts, locks, and hinges; quantity 150; cost: \$125 per box of 25 rounds.
  - (d) Royal Arms TESAR #4 yellow cap 750 grain copper frangible breaching round; fired from a dedicated breaching shotgun and is used to destroy deadbolts, locks, and hinges; quantity 100; cost: \$125 per box of 25 rounds.
  - (e) CTS 4557 40MM sponge round, fired from 40MM launcher, quantity 150; the 4557 sponge round is a smokeless, spin stabilized round, 4" long intended to deliver a less-lethal blunt trauma effect; cost \$20/per round.
- (b) Purpose: To increase opportunities to utilize de-escalation and in an effort to reduce lethal force within law enforcement. To be used in efforts to resolve dynamic incidents where deadly force is not authorized or otherwise undesirable.
  - (c) Authorized Use: Situations for use of the less lethal weapon systems may include, but are not limited to:
    - 1. Self-destructive, dangerous and/or combative individuals.
    - 2. Riot/crowd control and civil unrest incidents.

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3. Circumstances where a tactical advantage can be obtained.
  4. Potentially vicious animals.
  5. Training exercises or approved demonstrations
- (d) Lifespan: 25 + years for launchers and shotguns. 5 years for munitions.
- (e) Fiscal Impact: Annual maintenance of approx. \$25-\$50 per shotgun and 40MM Launcher. munitions replenished as necessary based on usage and lifespan.
- (f) Training: Requires a 4 hours less lethal course by a certified instructor. The 4 hours course is required to be completed annually to maintain certification; the course is reviewed and updated annually to ensure compliance with current law and procedures.
- (g) Legal and Procedural Rules: Use of less-lethal shotguns and 40MM launchers is established under policy sections 300 - Use of Force and 303 - Control Devices and Techniques. It is the policy of the Tracy Police Department to utilize less-lethal equipment only for official law enforcement purposes and consistent with State and Federal law regarding use of force.
7. Distraction Devices: A device used to distract potentially dangerous persons.
- (a) Description, quantity, capabilities, and purchase cost:
1. Combined Tactical Systems, 7290-9 Flash-Bang, cost: \$52, quantity: 50. A non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
  2. Combined Tactical Systems, 7290M Mini Flash-Bang, cost: \$55, quantity: 75. The 7290M Flash-Bang exhibits all the same attributes of its larger counterpart but in a smaller and lighter package. Weighing in at 15 ounces the new 7290M is approximately 30% lighter than the 7290 but still has the same 175db output of the 7290 and produces 6-8 million candelas of light.
- (b) Purpose: A distraction device is ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations. To produce atmospheric overpressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
- (c) Authorized Use: Diversionary Devices shall only be used:
1. By officers who have been trained in their proper use.
  2. In hostage and barricaded subject situations.
  3. In high risk warrant (search/arrest) services where there may be extreme hazards to officers.
  4. During other high-risk situations where their use would enhance officer safety.
  5. During training exercises.
- (d) Lifespan: 5 years from date of shipment.

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- (e) Fiscal Impact: No annual maintenance. Cost is associated with replacement after use.
- (f) Training: Prior to use, officers must attend diversionary device training that is conducted by certified instructors.
- (g) Legal and Procedural Rules: Use is established under Crisis Response Unit Operational Manual. It is the policy of the Tracy Police Department to utilize diversion devices only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

8. Rifles: Firearms which are shoulder fired having long spiraled rifling within the barrel intended to improve the accuracy of the rifle.

- (a) Description, quantity, capabilities, and purchase cost:

1. AR-15/M-4 Platform:

- (a) Colt; AR-15 standard rifle with 16" barrel, quantity 84; standard issue rifle which fires a .223 caliber cartridge providing more powerful round than a stand issue handgun with greater accuracy; cost: \$1,100/each.
- (b) Sionics; AR-15 custom rifle with 11.5" barrel; quantity 11; standard issue rifle which fires a .223 caliber cartridge providing more powerful round than a stand issue handgun with greater accuracy. It is a short-barreled rifle which allows a a trained officer better control inside of structures; cost \$1,100/each.
- (c) Sons of Liberty; M4-89 custom rifle with 11.5" barrel; quantity 24; standard issue rifle which fires a .223 caliber cartridge providing more powerful round than a stand issue handgun with greater accuracy; cost \$1,350/ each.

2. Precision Rifles:

- (a) Accuracy International AT .308 caliber bolt action rifle; quantity 4; rifle chambered in .308 caliber. The rifle is primarily used in over watch in critical incidents and other high-risk tactical situations such as hostage rescue and search warrant service, Cost \$4,000 / each.
- (b) Rock River Arms LAR-8 .308 caliber semi-automatic rifle; quantity 2; rifle chambered in .308 caliber. The rifle is primarily used in over watch in critical incidents and other high-risk tactical situations such as hostage rescue and search warrant service, Cost \$2,000 / each.

3. Ammunition:

- (a) Speer Gold Dot .223 caliber 62 grain rifle round, quantity 125 cases (500 rounds per case); cost: \$285 per case.
- (b) Hornaday A-Max .308 caliber 168 grain rifle round, quantity 5 cases (500 rounds per case); cost: \$400 per case.
- (c) Hornaday Bonded .308 caliber 165 grain rifles round, quantity 5 cases (500 rounds per case); cost: \$400 per case.

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- (b) Purpose: To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun.
- (c) Authorized Use: Only members who have attended a POST certified course are authorized to use a rifle. Tracy Police Department provides this training to all sworn peace officers.
- (d) Lifespan: 15 years.
- (e) Fiscal Impact: annual maintenance of approx. \$50-100 per rifle.
- (f) Training: Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification two times a year.
- (g) Legal and Procedural Rules: Use of rifles is established under policy sections 300 - Use of Force, 306 - Firearms, and 419 - Patrol Rifles. It is the policy of the Tracy Police Department to utilize rifles only for official law enforcement purposes and consistent with State and Federal law regarding use of force.

9. Chemical Agent and Smoke Canisters: Canister which contain chemical agents that are released when deployed.

- (a) Description, quantity, capabilities, and purchase cost:
  - 1. Remington 870 shotgun dedicated to launch CS; quantity 2; specialized Remington 870 shotgun with th dedicated launching cup for the purpose of launching CS cannisters; cost: \$425/each. A 1210,12 gauge launching cartridge is used to deploy the CS cannisters. The launching cartridge is designed to propel the CS cannister further than could be thrown by hand.
  - 2. CTS 5230B - CS Baffled canister grenade, pyro, low flame potential; quantity 100; The 5230B pyrotechnic grenade is designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire; cost: \$37/each.
  - 3. Defense Technology Spede-Heat Continuous Discharge Grenade, CS; quantity 50; The Spede-Heat CS Grenade is a high-volume continuous burn device. It expels its payload in approx. 30 - 4- seconds. The payload is discharged through four gas ports on the top of the canister, three on the side, and one on the bottom. The canister holds approx. 81.2 grams of CS; cost \$25/each.
  - 4. Defense Technology Flameless TRI-CHAMBER CS Grenade, #1032; quantity 50; The design of the Tri-Chamber Flameless CS Grenade allows the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. The grenade is designed primarily for indoor tactical situations to detect and/or dislodge a barricaded subject. This grenade will deliver approximately.70 oz. of agent during its 20-25 seconds burn time. The Tri-Chamber Flameless Grenade can be used in crowd control as well as tactical deployment situations by Law Enforcement and Corrections but was designed with the barricade situation in mind. Its applications in tactical situations are primarily to detect and/or dislodge barricaded subjects. The purpose of the Tri-Chamber Flameless Grenade is to

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minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The Tri-Chamber Flameless Grenade provides the option of delivering a pyrotechnic chemical device indoors, maximizing the chemicals' effectiveness via heat and vaporization, while minimizing or negating the chance of fire to the structure; cost \$25/each.

5. Defense Technology Ferret 40MM Liquid Barricade Penetrator Round, CS; quantity 100; The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation or potentially violent or dangerous subjects; cost: \$23/each.
  6. Defense Technology OC Aerosol Grenade 1.3% Fogger, 6oz; quantity 25; The 6 oz. OC Aerosol Grenade will deliver its payload of 1.3% MC% OC in 20-25 seconds. This is a atomized mist which enhances the pungent 1.3% OC formulation. Ideal for area denial areas like attics, garages, etc. This device has minimum clean up. The canister may also be hand held to direct the spray pattern. This product is designed to provide room clearing ability with minimum clear up requirements; cost: \$ 17/each.
  7. Defense Technology Maximum HC Smoke Military-Style Canister; quantity 25; The Military-Style Maximum Smoke Grenade comes from the Defense Technology® #3 smoke grenade. It is a slow burning, high volume, continuous discharge grenade designed for outdoor use in crowd management situations. Emits grey-white smoke only for approximately 1.5 to 2 minutes; cost: \$30/each.
  8. Defense Technology CS HAN-BALL Grenade; quantity 50; The Han-Ball™ CS Grenade is an outdoor use grenade expelling its payload in approximately 15-20 seconds. The rubber ball round has an over all size of 4.8 in. tall, including the fuze head, and 3.1 in. diameter. This launchable grenade holds approximately 1.6 oz. of active agent which is expelled through three ports around the equator of the ball. Due the intense heat generated by this grenade, it should not be used inside a building or near flammable material; cost: \$45/each.
  9. Golden Eagle Fogger Series 4 CS/OC Fogger; quantity 1; dispenses CS or OC efficiently in riotous situations. Utilizes Pepper Fog CS irritant and Pepper Fog OC; quantity 4 quarts each; cost \$60 per quart.
- (b) Purpose: To safely resolve critical situations high risk operations. These are necessary because there are no reasonable alternatives that can achieve the same objective of officer and civilian safety and will safeguard the public's welfare.
- (c) Authorized Use: To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to:

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1. Self-destructive, dangerous and/or combative individuals.
  2. Riot/crowd control and civil unrest incidents.
  3. Circumstances where a tactical advantage can be obtained.
  4. Potentially vicious animals.
  5. Training exercises or approved demonstrations.
- (d) Lifespan: 25 + years for breaching shotguns and 5 years for other materials.
- (e) Fiscal Impact: Annual maintenance and replacement is approx. \$2,500.
- (f) Training: All staff utilizing the equipment must be training by a POST certified chemical agent instructor.
- (g) Legal and Procedural Rules: The use of items is established by Department policy and the Crisis Response Unit Operational Manual. Tracy Police Department to utilize rifles only for official law enforcement purposes and consistent with State and Federal law regarding use of force.

### 708.4.1 MAINTENANCE OF SUPPLY LEVELS

The Department, by authorization of the Chief of Police is authorized to purchase equipment and associated and munitions approved by Council pursuant to this policy as long as it does not go beyond the scope of capabilities currently approved. The Department is authorized to maintain adequate levels of approved munitions, replace defective equipment, and increase quantities of approved equipment as needed to meet operational and safety needs of the Department and community. All purchases shall follow pre-established purchasing guidelines of the City of Tracy.

Purchase of equipment does not have to be the exact make and model listed however, they shall not exceed to capabilities and intended use as described and approved within this policy.

#### Example(s)

1. An increase in allocated positions by City Council may make necessary the purchase of additional equipment and munitions for both operational and training needs.
2. A manufacturer may stop making a specific model of a product, or that item may become difficult to obtain due to supply chain issues and it may become necessary to locate and purchase a similar product to maintain operation capabilities.
3. An approved military equipment program, may need to expand for operational needs (ex: increase the number of UAS in deployment, or purchase of additional less lethal shotguns).

It is the stated purpose of this policy section not exceed the scope of City Council approval and any increases in quantity shall be reported to City Council as part of the annual report for Military Equipment.



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### 708.4.2 MILITARY EQUIPMENT USE REPORTING REQUIREMENTS

All military equipment and munitions approved for use by this policy, when deployed in the field shall be documented and reported in PlanIt by the supervisor by the end of their assigned shift using the form titled "AB 481". The patrol Watch Commander shall conduct a weekly audit ensure the deployment data is being properly reported.

The Crisis Response Unit shall document the military equipment deployment as part of their after action report and the Team Leader, or designee shall enter the information into PlanIt using the form titled "AB 481". The Tactical Commander shall conduct a quarterly audit to the date is being property reported.

As part of the annual reporting requirement, the Professional Standards and Training Division shall complete a report to be submitted to City Council in a regular meeting.

As it relates to this policy, the term deployed means to have been utilized it response to a real world incident whether or not the equipment was used (i.e. kinetic energy round fired from platform).

### **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 used by any member of this Department shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are

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providing mutual aid to this Department, or otherwise engaged in law enforcement operations in this jurisdiction, shall comply with their respective military equipment use policies.

#### **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.

Any member of the public can register a question or concern regarding military equipment by contacting the Professional Standards and Training Division by email at [PROFESSIONALSTANDARDS@TRACYPD.COM](mailto:PROFESSIONALSTANDARDS@TRACYPD.COM) or by telephone at (209) 831-6559.

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**(1) APPROVING THE ANNUAL MILITARY EQUIPMENT REPORT AND FINDING THAT EACH TYPE OF MILITARY EQUIPMENT IDENTIFIED IN THE ANNUAL REPORT COMPLIES WITH THE STANDARDS SET FORTH IN GOVERNMENT CODE SECTION 7071(D); AND (2) RENEWING, PURSUANT TO GOVERNMENT CODE SECTION 7071(E), ORDINANCE 1327 AUTHORIZING THE CONTINUED USE OF THE MILITARY EQUIPMENT SPECIFIED IN TRACY POLICE DEPARTMENT POLICY 708 – MILITARY EQUIPMENT**

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill 481 (AB 481), regarding the use and annual reporting requirements of military equipment by law enforcement agencies; and

WHEREAS, California Government Code Sections 7070 through 7075 codified AB 481, which required that the governing bodies for all law enforcement agencies adopt an ordinance approving a military equipment use policy that governed the funding, acquisition, or use of military equipment, and also allowed law enforcement agencies to continue using already purchased and acquired military equipment if the governing body adopted an ordinance approving the continued use no later than May 1, 2022; and

WHEREAS, on April 5, 2022, the Tracy Police Department complied with AB 481 and introduced Ordinance 1327, which was adopted on April 19, 2022, and approved Tracy Police Department's Military Equipment Use Policy (Lexipol Policy #708); and

WHEREAS, Government Code Section 7072 requires a law enforcement agency to submit to the governing body an annual military equipment report for each type of military equipment previously approved by the government body within one year of approval; and

WHEREAS, Government Code Section 7071, subsection (e)(2), states that the governing body shall determine, based on the annual equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards of approval set forth in Section 7071, subsection (d);

WHEREAS, Government Code Section 7071, subsection (e)(1), requires the governing body to review any ordinance it has adopted for the funding, acquisition, or use of military equipment annually, and vote whether to renew the ordinance at a regular meeting; and now therefore be it

**RESOLVED:** That the City Council hereby approves the Tracy Police Department's annual military equipment report pursuant to Government Code Section 7072, and finds that pursuant to Government Code Section 7071, subsection (e)(2), each type of military equipment

identified in the report has complied with the standards of approval set forth in Government Code Section 7071, subsection (d); and be it

FURTHER RESOLVED: That the City Council renews Ordinance 1327 pursuant to Government Code Section 7071, subsection (e)(1), and authorizes the continued use of the military equipment specified in Tracy Police Department's Military Equipment Use Policy (Lexipol Policy #708).

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on March 21, 2023, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

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NANCY D. YOUNG  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
ADRIANNE RICHARDSON  
City Clerk and Clerk of the Council of the  
City of Tracy, California