



CITY COUNCIL STAFF REPORT

DATE: April 21, 2022

PUBLIC HEARING

SUBJECT: ADOPTION OF ORDINANCE AUTHORIZING A MILITARY EQUIPMENT USE POLICY, AS REQUIRED BY ASSEMBLY BILL 481

FROM: Justin Clifton, City Manager

BY: Police Department

SUMMARY:

Assembly Bill 481 was signed into law on September 30, 2021, by Governor Gavin Newsom and became effective on January 1, 2022. AB 481 addresses the funding, acquisition, and use of military equipment as that term is defined by Government Code section 7070(c). The Palm Springs Police Department ("Department") is recommending the City Council support and approve its current inventory of specialized equipment and adopt a military equipment use policy, by ordinance, as required by AB481.

RECOMMENDATION:

1. Open the public hearing and receive public testimony.
2. Introduce by title only and waive further reading of Ordinance No. _____, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING PALM SPRINGS POLICE DEPARTMENT POLICY NO. 709, IN ACCORDANCE WITH ASSEMBLY BILL 481."

STAFF ANALYSIS:

Under AB 481, a governing body approval must take the form of an ordinance adopting a publicly released, written military equipment use policy which must address a number of specific topics, including the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment, the fiscal impact of their acquisition and use, the legal and procedural rules that govern their use, the training required by any officer allowed to use them, the mechanisms in place to ensure policy compliance, and the procedures by which the public may register complaints. The governing body must consider a proposed military equipment use policy in open session and may only approve a military equipment use policy if it makes various specific findings regarding the necessity of the military equipment and the lack of reasonable alternatives. The policy being proposed to Council has been included as "**Attachment A**".

The Palm Springs Police Department acknowledges its primary role is peacekeeping and recognizes the delicate nature of a law enforcement agency possessing military equipment. Being entrusted with military-style equipment to solve complex and violent problems is a sacred responsibility that demands high accountability and transparency. The Department will promulgate internal procedures to ensure that the Council and the public are confident in the proper use of each piece of equipment.

Law enforcement incidents can be unpredictable and highly complex. The Palm Springs Police Department is tasked with preserving public safety, protecting the community, and apprehending criminal offenders. The Department is committed to utilizing contemporary tools and resources to help safeguard the community and reduce the risk of escalating volatile situations that might otherwise rise to the level of a lethal encounter. Special equipment, tools and resources may help deescalate violent and tense situations, and reduce the possibility of harm to community members, individuals directly involved in the incident, and officers.

Items identified as “military equipment” include, but are not limited to, unmanned aerial (drones) or ground vehicles, vehicles that provide ballistic protection, command vehicles designed to facilitate the direction of public safety units, pepper balls, less lethal 40mm projectile launchers and diversionary devices. These tools preserve human life when utilized during responses to critical incidents by reducing the likelihood of physical injury to the public and Department personnel and allowing an opportunity for de-escalation tactics during high-risk encounters with armed, violent suspects. In addition to enhancing citizen and officer safety, these tools can also facilitate search and rescue efforts and assist in rapid responses to catastrophic events. The Department has not discovered other reasonable alternatives for these tools that are able to comparably preserve, promote and enhance public safety.

The proposed ordinance, included as “**Attachment B**”, and the Department’s Military Equipment Policy provide safeguards to the public’s safety, welfare, and civil rights and ensure transparency, oversight and accountability measures are in place. AB 481 requires any law enforcement agency that receives approval for the use of military equipment to submit annual reports to the governing body regarding the use of the equipment, any complaints received, any internal audits or other information about violations of the military equipment use policy, and the cost of such use. With Council approval of the proposed ordinance, the Palm Springs Police Department can deploy, acquire, and collaborate with allied law enforcement partners to use the most advanced technology, equipment, and resources available to effectively protect the community, prepare for the unexpected, and safeguard lives.

FISCAL IMPACT:

Costs associated with the use, acquisition and deployment of military equipment will vary from year to year based on training, staffing, and required use. Acquisition of military equipment will follow all established City of Palm Springs procurement policies and procedures.

REVIEWED BY:

Department Director:	Andrew G. Mills
City Manager:	Justin Clifton

ATTACHMENTS:

- A.) Proposed Military Equipment Policy No. 709
- B.) Ordinance

ATTACHMENT "A"

Military Equipment

709.1 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).

709.1.1 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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709.2 POLICY

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

709.3 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 Palm Springs 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.

709.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department: [See attachment: Military Specialized Equipment Inventory](#)

709.5 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):

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- (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.

709.6 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 providing mutual aid to this Department or operating in conjunction in a law enforcement capacity with this Department, shall comply with their respective military equipment use policies in rendering mutual aid.

Through the Association of Riverside County Chiefs of Police (ARCCOPS) mutual aid agreement, all cities within Riverside County have agreed to accept the use of each law enforcement agencies Military Equipment policy related to any enforcement action throughout Riverside County.

709.7 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.

709.8 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.

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709.8.1 COMPLIANCE

Department members are bound to adhere to this Policy, in addition to state and local laws and ordinances when employing the use of military equipment at any time. Violations of the law or this Policy may result in criminal or administrative investigations, or action.

709.8.2 COMPLAINT PROCESS

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: chief@palmspringsca.gov
2. Via phone call to: (760) 323-8126
3. Via mail sent to: Palm Springs Police Department

Attn: Military Equipment Use Coordinator

200 S. Civic Drive

Palm Springs, CA 92262

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

Attachments

Military Specialized Equipment Inventory DRAFT.pdf

1. **Robot (Category 1)**

a. Description, quantity, capabilities, and purchase cost:

Inventory includes (1) ICOR MK3 Caliber robot. This equipment is a battery powered, remote operated device.

I. ICOR Robot – Initial Cost: \$Unknown. Primary cost handled by Cathedral City PD

b. Purpose:

This equipment is for (potential) use during high-risk incidents. To be used to remotely gain visual/audio data, deliver HNT phone, open doors, disrupt packages, and clear buildings.

c. Authorized Use:

Use is limited to members of the department's Special Weapons and Tactics Unit (SWAT). Only operators who have completed the required training shall be permitted to operate the robots. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/rescue. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject's location is very important, and the robot can provide that without placing anyone at risk. Cameras can also help determine if a subject is armed and if there are other subjects inside that need assistance. The two-way speakers can be used to de-escalate and determine resistance level.

d. Expected Life Span:

20_years

e. Fiscal Impact:

Annual cost: \$0 - \$3000

2. **Armored Vehicles (Category 2 &3)**

a. Description, quantity, capabilities, and purchase of current armored vehicles:

Inventory includes four (2) Lenco Ballistic Engineered Armored Response Counter-Attack Trucks (2006 BEAR-CAT and 2017 BEAR). The BEAR-CAT and BEAR, or Rescue Vehicles, are primarily used during high-risk tactical enforcement operations, officer rescues, and vehicle borne interventions. Additional deployments are used during criminal unrest and riots. Rescue vehicles provide ballistic safety during containment and apprehension of armed violent suspects. The armored vehicles also provide four-wheel drive capability to transport or evacuate victims in a flood, fire or other natural disaster scenario.

I. Bearcat – Initial Cost: \$213,329.02. \$155,000 of the total cost donated by private entity. City cost \$56,329.52 paid for from city budget.

II. Bear – Initial Cost: \$513,600 of which \$256,800 was donated by private entity. Remaining cost of 256,800 paid for from City Motor Vehicle Replacement fund.

b. Purpose:

To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.

c. Authorized Use:

The use of armored vehicles shall only be authorized by a watch commander or SWAT commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicles shall have a valid California driver license. All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 706 – Vehicle Use, PSPD Policy 409 – Special Weapons and Tactics Unit.

Expected Life Span:

I. Bearcat -15-20 years

II. Bear – 15 -20 years

d. Fiscal Impact:

Annual Cost: estimated at \$1000-\$2500 per vehicle

3. **Command and Control Vehicles Built or Modified to Facilitate the Operational Control and Direction of Public Safety Units (2004 Freightliner MB-55 Comms Vehicle) (Category 5)**

- a. Description, quantity, capabilities, and purchase cost:

Command vehicles are built in various platforms to include ½ ton pickup chassis, and RV style configuration designed to provide communications intelligence, equipment transportation and crisis communication support.

 - I. 2004 Freightliner MB-55 RV - Initial Purchase Cost: \$428,661.86
 - II. 2008 Ford F-250 Super-Duty Pickup – Initial Purchase Cost: \$41,525.47
- b. Purpose:

Vehicles are built to better assist in command and control during law enforcement operations, natural disasters, and public safety issues. Vehicles are designed with additional communication abilities, computers, white boards, lightening, generators, and mission essential supplies
- c. Authorized Use:

The SWAT Command Vehicles shall be used by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license appropriate for vehicle driven. All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 706 – Vehicle Use, PSPD Policy 409 – Special Weapons and Tactics Unit.
- d. Expected Life Span:
 - I. Freightliner - 15-20 years (Expired. Non-Operational)
 - II. Ford F-250 – 15 years
- e. Fiscal Impact:
 - I. Freightliner - Annual maintenance cost: \$0
 - II. Ford F-250 – Annual maintenance cost estimated at \$1500 or less

4. **Vehicles with Breaching or Entry Apparatus Attachable (Category 2&3)**

- a. Description, quantity, capabilities, and purchase cost:

LENCO Bear Ballistic Armored vehicle has an attachable metal boom that can be used for breaching structures, fences, or ramming objects.

 - I. LENCO BEAR – Initial purchase covered in item 2 “Armored Vehicles.”
- b. Purpose:

The equipment is to be used during high-risk incidents, to include active shooter incidents on school ground or buildings to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.
- c. Authorized Use:

The use of armored vehicles shall only be authorized by a watch commander or SWAT commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license. All other applicable PSPD policies remain in effect, to include, but not limited to PSPD Policy 706 – Vehicle Use, PSPD Policy 409 – Special Weapons and Tactics Unit.

Expected Life Span:
15-20 years
- d. Fiscal Impact:

Annual maintenance cost referenced in item 2(d) above.

5. **Assault Weapons Defined Under PC 30510 & PC 30515 (Category 10)**

a. Description, quantity, capabilities, and purchase cost:

Inventory includes AR style rifles that function at full and semi-automatic capability (fully automatic rifles are only assigned to SWAT personnel, training division or stored within the station for station protection in the event of an active shooter).

- I. Colt AR 15/M4 Rifle, cost approximately: \$20,000, quantity: 15
- II. AI Bolt Action .308 caliber Rifle, cost approximately: \$12,000, quantity: 3
- III. POF .308 caliber Rifle, cost: unknown, quantity: 2. No longer in use.
- IV. Colt AR 15/M16 Full Auto, cost \$0, quantity 1, acquired through 1033 program
- V. Colt AR 15/M16 Semi Auto, cost \$0, quantity 15, acquired through 1033 program

b. Purpose:

The weapons are to be used in situations that require increased accuracy and precision at long range distances. Currently used by most law enforcement agencies across the nation.

c. Authorized Use:

Only members that are POST certified are authorized to use a rifle. All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 300 – Use of Force, PSPD Policy 312 – Firearms Training and Qualifications, PSPD Policy 409 – Special Weapons and Tactics Unit.

d. Expected Life Span:

- I. Colt AR 15/M4 Rifle – No expiration
- II. AI Bolt Action .308 caliber Rifle – No expiration
- III. POF .308 caliber Rifle – No longer in use
- IV. Colt AR 15/M16 Full Auto – No expiration
- V. Colt AR 15/M16 Semi Auto – No expiration

e. Fiscal Impact:

- I. Colt AR 15/M4 Rifle – Annual cost between \$0 - \$20,000
- II. AI Bolt Action .308 caliber Rifle – Annual cost between \$0 - \$12,000
- III. POF .308 caliber Rifle – No longer in use – Annual cost: \$0
- IV. Colt AR 15/M16 Full Auto – Annual Cost - \$0
- V. Colt AR 15/M16 Semi Auto – Annual Cost - \$0

6. **Breaching Apparatus: Slugs, etc. (Category 7)**

a. Description, quantity, capabilities, and purchase cost

Royal Arms Tesar-2 – 12-gauge slugs, cost: Approx. \$560, quantity: 120. Shotgun breaching rounds are specialty shotgun shells utilized for door breaching. The Royal Arms Tesar-2 rounds contain compressed copper powder and are fired through a specialized breaching shotgun barrel. The copper powder is designed to strike and destroy the lock throw inside of the door, allowing entry into the room or structure. The powder is designed to dissipate after striking the lock throw in order to minimize entry into the target space for the safety of occupants and operators. Designed to breach heavy locks, dead-bolts, and hinges mounted inside of solid oak or steel doors. Royal Arms Tesar-2 rounds are good until expended if stored properly. Shotgun breaching rounds are used to gain rapid access to a room or structure when an emergent law enforcement need exists.

b. Purpose:

The rounds are used to impact door hinges, doorknobs, and locks and to safely gain entry into a structure.

c. Authorized Use:

Explosive breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, and during training exercises. All other applicable PSPD policies remain

in effect, to include, but not limited to, PSPD Policy 322 – Search and Seizure, PSPD Policy 409 Special Weapons and Tactics Unit.

- d. Expected Life Span:
Until expended
- e. Fiscal Impact:
Individual unit price of approximately \$4 each. Estimated between \$0 and \$500 annually

7. Breaching Apparatus: Explosive Breaching Tools (Category 7)

- a. Description, quantity, capabilities, and purchase cost:
Explosive breaching tools are used to breach fortified structures to establish a point of entry. Explosive charges are fashioned to produce little to no fragmentation at the time of detonation. Explosive breaching effectively reduces the time spent overcoming a fortified door or structure. The reduction in time mitigating a hardened structure increasing officer safety and the element of surprise. Blast injuries are reduced by using low yield explosives that mechanically overcome door frames and locking mechanisms.
 - I. 25 grain detonation cord, cost: \$375, quantity 1000 ft.
 - II. 50 grain detonation cord, cost: \$380, quantity 1000 ft.
 - III. Nonel Shock tube blasting caps: cost: total \$1185, quantity 150.
- b. Purpose:
To safely gain entry into a structure.
Authorized Use:
Explosive breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, and during training exercises. All Breachers will attend an approved "Tactical Energetic Breaching" course. Attend an accredited "advanced" Energetic Breaching course or equivalent. All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 322 – Search and Seizure, PSPD Policy 409 Special Weapons and Tactics Unit.
Expected Life Span:
 - I. 25 grain detonation cord – 5 years
 - II. 50 grain detonation cord – 5 years
 - III. Nonel Starters – until expended
- c. Fiscal Impact:
 - I. 25 grain detonation cord – estimated between \$0 and \$349 annually.
 - II. 50 grain detonation cord – estimated between \$0 and \$1,915.49 annually
 - III. Nonel Starters – \$0

8. Flashbangs (Category 12)

- a. Description, quantity, capabilities, and purchase cost:
Light Sound Diversionary Device (LSDD-“Flashbangs”) are diversionary devices used to minimize risk to all parties through the temporary distraction or disorientation of armed and violent suspects that pose significant danger to the officers and community. The effects of the LSDD reduce a suspect’s reactionary capabilities and allow for momentary disorientation which creates a tactical advantage. LSDD is a hand delivered device and generally deployed on the exterior of a structure.
 - VI. NFDD CTS Model 7290M – Mini bang, cost: \$1901.34, quantity: 42
 - VII. NFDD CTS Model 7290-9 – 9 Bang, cost: \$642.06, quantity 6
- b. Purpose:

To produce atmospheric over-pressure 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:

- i. By SWAT officers who have been trained in their proper use.
- ii. In hostage and barricaded subject situations.
- iii. In high-risk warrant (search/arrest) services where there may be extreme hazards to officers.
- iv. During other high-risk situations where their use would enhance officer safety.
- v. During training exercises.

All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 300 – Use of Force, PSPD Policy 409 – Special Weapons and Tactics Unit.

d. Expected Life Span:

5 years

e. Fiscal Impact:

- I. NFDD CTS Model 7290M – Annual cost between \$0 - \$4300
- II. NFDD CTS Model 7290-9 – Annual cost between \$0 - \$2000

9. **Tear Gas (Category 12)**

a. Description, quantity, capabilities, and purchase cost:

Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Palm Springs Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects.

The Palm Springs Police Department uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS. OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

- I. **CS 1082** - The Riot Control CS Grenade is designed specifically for outdoor use in crowd control situations with a high-volume continuous burn that expels its payload in approximately 20-40 seconds through four gas ports located on the top of the canister. This grenade can be used to conceal tactical movement or to route a crowd. The volume of smoke and agent is vast and obtrusive. This launchable grenade is 6.0 in. by 2.35 in. and holds approximately 2.7 oz. of active agent. Cost: \$ 50, quantity: 2
- II. **CS F620** - 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 of potentially violent or dangerous subjects. Cost: \$ 445, quantity: 16
- III. **OC 1070** - The Spede-Heat OC Grenade is a high volume, continuous burn it expels its payload in approximately 20-40 seconds. The payload is discharged through four gas

ports on top of the canister, three on the side and one on the bottom. This launchable grenade is 6.12 in. by 2.62 in. and holds approximately 1.09 oz. of active agent. Cost: \$30, quantity: 1

IV. **OC 6340 Aerosol** - This unique grenade delivers an invisible OC vapor and renders an intense respiratory effect to a non-compliant subject. Cost: \$70, quantity: 2

V. **CS 6330 Aerosol** - A unique grenade delivering an invisible vapor and rendering an intense respiratory effect. Cost: \$ 70, quantity: 2

b. Purpose:

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:

- I. Self-destructive, dangerous and/or combative individuals.
- II. Riot/crowd control and civil unrest incidents.
- III. Circumstances where a tactical advantage can be obtained.
- IV. Potentially vicious animals.
- V. Training exercises or approved demonstrations.

c. Authorized Use:

Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 300 – Use of Force, PSPD Policy 409 – Special Weapons and Tactics Unit.

d. Expected Life Span:

5 years for each category

e. Fiscal Impact:

- I. 1082 – estimated between \$0 and \$2500 annually
- II. F620 – estimated between \$0 and 500 annually
- III. 1070 – estimated between \$0 and 500 annually
- IV. 6340 – estimated between \$0 and \$380 annually
- V. 6330 – estimated between \$0 and 360 annually

10. **40mm Projectile Launchers (Category 14)**

a. Description, quantity, capabilities, and purchase cost:

Less lethal 40mm launchers and rubber projectile munitions- Munitions are configured for high and low energy impact. Munitions have the additional benefit as a barrier round for breaking vehicle and residential glass so that chemical munitions can be deployed. The sponge munition is used as a Less-Lethal weapon designed to de-escalate a potentially violent encounter.

- I. DEFTEC 40mm launcher, cost per device: \$1500, quantity: 58

b. Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. 40mm less lethal has been effective in disarming violent suspects, armed suspects, and subjects who are suicidal with minimal injury and risk to the person, law enforcement or the public.

c. Authorized Use:

Situations for use of the less lethal weapon systems may include, but are not limited to:

- I. Self-destructive, dangerous and/or combative individuals.
- II. Riot/crowd control and civil unrest incidents.
- III. Circumstances where a tactical advantage can be obtained.
- IV. Potentially vicious animals.
- V. Training exercises or approved demonstrations.

All other applicable PSPD policies remain in effect, to include, but not limited to, PSPD Policy 300 – Use of Force.

d. Expected Life Span:

- I. 40mm Launcher: No expiration
- II. 40 mm Sponge Round: 5 years
- e. Fiscal Impact:
 - I. 40mm Launcher: estimated between \$0 and \$1500 per device
 - II. 40 mm Sponge Round: estimated between \$0 and \$3000 annually

11. **Maintenance of Military Use Supply Levels**

When military equipment has reached significantly low levels or have been exhausted, or the department requires acquisition of any of the items noted in Category 1-15 under Military equipment categories of this policy, the Department may order equipment as needed in each calendar year by adhering to City of Palm Springs procurement rules, regulations, and city approval processes.

ATTACHMENT "B"

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PALM SPRINGS, CALIFORNIA, ADOPTING
PALM SPRINGS POLICE DEPARTMENT POLICY
NO. 709, IN ACCORDANCE WITH ASSEMBLY BILL
481**

WHEREAS, on September 30, 2021, Governor Newsom signed into law Assembly Bill (“AB”) 481 to address the funding, acquisition, and use of military equipment, as that term is defined by Government Code section 7070(c); and

WHEREAS, AB 481 requires adoption of a military use equipment policy (“Policy”) by the City Council before the Palm Springs Police Department (“Department”) may take action to request military equipment; seek funds (such as grants or in-kind donations) for acquiring military equipment; actually acquire military equipment, either permanently or temporarily by owning, borrowing, or leasing; collaborate with other law enforcement agencies to deploy or use military equipment in the agency’s territorial jurisdiction; use new or existing military equipment in a manner not previously subject to AB 481’s scope; solicit or respond to a proposal for, or enter into an agreement with, any person or entity to seek funds for, apply for, acquire, use, or collaborate in using military equipment; or to acquire military equipment through any other means not specifically detailed in the statute; and

WHEREAS, to continue to use military equipment acquired prior to January 1, 2022, the law enforcement agency must commence the process of adopting the Policy no later than May 1, 2022; and

WHEREAS, in accordance with AB 481, the proposed Policy was made available on the website on the Department website at least thirty (30) days prior to the public hearing by the City Council to adopt the Policy; and

WHEREAS, once adopted, the Policy will be made publicly available on the Department website for as long as the covered military equipment is available for use; and

WHEREAS, in accordance with AB 481, the Policy is on the agenda as an open session item at a regular meeting of the City Council, and public comment on the item will be allowed in accordance with the Brown Act; and

WHEREAS, this Ordinance shall be reviewed by the City Council at least annually, and based on an annual military equipment report that will be submitted to the City Council pursuant to AB 481, the City Council shall determine whether each type of military equipment identified in the report has complied with the standards for continued approval.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS

The City Council finds that all recitals, facts, findings, and conclusions set forth above are true and correct and hereby incorporated by reference.

SECTION 2. FINDINGS

Pursuant to Government Code section 7071(d)(1), as may be amended or renumbered from time to time, the City Council hereby makes the following findings in support of its adoption of the Policy:

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

B. The proposed Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

C. If the Department purchases military equipment pursuant to the Policy, 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.

SECTION 3. ADOPTION OF MILITARY EQUIPMENT POLICY

The City Council hereby adopts the Policy No. 709, Military Equipment Policy, along with any related Attachments, which are all attached hereto as Attachment "A".

SECTION 4. CEQA.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be effective thirty (30) days from and after its final passage.

SECTION 6. SEVERABILITY.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Palm Springs hereby declare they would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. PUBLICATION.

The City Clerk is authorized and directed to cause this ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code Section 36933 (c).

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS _____ DAY OF _____, _____.

LISA MIDDLETON
MAYOR

ATTEST:

MONIQUE M. LOMELI, CMC
INTERIM CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, MONIQUE M. LOMELI, Interim City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on _____ and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs, California, this _____ day of _____, _____.

MONIQUE M. LOMELI, CMC
INTERIM CITY CLERK