

Military Equipment

709.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, funding, and reporting requirements regarding military equipment as defined in Government Code § 7070 (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 San Luis Obispo City Council (“City Council”).

Military equipment – Includes, but is not limited to, the following as defined in Government Code § 7070(c):

- 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 handguns.
- 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 City Council to require additional oversight.

Pursuant to Government Code § 7070(c), the following are not military equipment:

- Police versions of standard consumer vehicles
- Unarmored all-terrain vehicles (ATVs) and motorized dirt bikes
- Items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person

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- Standard issue shotguns
- Standard issue shotgun ammunition
- Standard issue service weapons and ammunition of less than .50 caliber
- Standard service-issued handheld pepper spray
- General equipment not designated as prohibited or controlled by the federal Defense Logistics Agency

709.2 POLICY

It is the policy of the San Luis Obispo Police Department that members of this department comply with the provisions of Government Code sections 7070 through 7075 with respect to the approval for, acquisition, funding, and use of, and reporting regarding military equipment.

709.3 MILITARY EQUIPMENT COORDINATOR

The Police Administrative Captain is designated as the Military Equipment Coordinator by the Chief of Police and shall have all duties and responsibilities herein to include, but are not limited to:

- (a) Acting as liaison to City Council 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 City Council.
- (c) Conducting an inventory of all department military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of San Luis Obispo Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting, as outlined in section 709.8 of this policy, to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the department's funding, acquisition, and use of military 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 by the department, and how the department will respond in a timely manner.

709.4 MILITARY EQUIPMENT INVENTORY

The qualifying equipment for the department is listed in Attachment A to this policy.

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709.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the City Council by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to City Council 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 City Council 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 City Council.
- (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 in the possession of the department shall not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

This policy recognizes the need for agencies to provide assistance to each other, whether in ongoing, combined, or regional operations, occasional planned operations, or in exigent circumstances. Where applicable to the provisions of Government Code § 7070 through § 7075, such assisting agencies shall comply with their respective military equipment use policies when rendering assistance and with any directions for use of department military equipment given by department command.

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709.7 EXTRAORDINARY CIRCUMSTANCES

This policy also recognizes that there may be very limited or extreme instances where incidents of extraordinary nature could demand the need for incident commanders to authorize Department personnel to use equipment not specified in this policy. This decision must be made depending on the totality of the circumstances, including due regard for the public's safety, officer safety, respecting civil rights, the seriousness of the situation, and other information available at that time. Should such extreme instances occur that call for members of this Department to use equipment not specified in this policy, the incident commander shall, if practical, notify the Chief of Police via the chain of command prior to deploying such equipment and the use of such equipment shall be documented in an appropriate report. Should such circumstances occur, the Chief of Police, or his/her designee, shall notify the City Council as soon as practical, and document any such uses in the required annual report.

709.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee shall submit a military equipment report to City Council for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee shall 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.

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:

- (a) A summary of how the military equipment was used and the purpose of its use.
- (b) A summary of any complaints or concerns received concerning the military equipment.
- (c) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (d) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other 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.
- (e) The quantity possessed for each type of military equipment.
- (f) If the department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

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709.9 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 general public may discuss and ask questions regarding the annual military equipment report and the Department's funding, acquisition, or use of military equipment. At the meeting, the Department shall discuss the report and respond to questions regarding the Department's funding, acquisition, or use of military equipment (Government Code §7072).

709.10 MILITARY EQUIPMENT COMPLAINT PROCESS

Trust and transparency to the community we serve is paramount to our community-oriented policing philosophy. Maintaining an active exchange of ideas and feedback is integral to the harmonization of this collaborative initiative. The most effective way to partner with our community on these important topics is to provide a safe and transparent means by which we listen to feedback and engage concerns on the necessary tools we are entrusted with to serve our community. Building and maintaining trust is predicated on first listening to concerns, giving a voice through dialogue, and swiftly acting on areas where we can improve.

Pursuant to 709.3 (g) of this policy, all formal complaints, questions, or inquiries received by the department, regardless of manner, pertaining to the use or misuse, possession, or acquisition of any item defined by this policy and/or AB 481 as Military Equipment shall be referred to Lexipol policy 1019 Personnel Complaints. Any complaint related to the misuse of Military Equipment is deemed *serious* in nature and will be investigated thoroughly and as expeditiously as possible and in accordance with the stringent procedures and processes as directed by Lexipol policy 1019.

Complaints received under 709.10 will be thoroughly documented and dispositions recorded per Lexipol policy 1019. All complaints, regardless of findings and/or disposition, shall be aggregated annually and reported to the Chief of Police for inclusion into the department's annual Military Equipment Report presented to Council.