

Military Equipment Use Policy

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, use, and reporting requirements of military equipment in compliance with Chapter 12.8 of Division 7 of Title 1 of the California Government Code (Sections 7070-7075) and shall be known as the City's "Military Equipment Use Policy" or "the Policy."

707.1.1 DEFINITIONS

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

Governing body – The elected body that oversees the Department, which is the Santa Maria City Council.

Military equipment – A wide variety of items as defined by California Government Code Section 7070, subsections (c)(1) through (c)(16). Includes but is not limited to the following:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this section. This does not include a handheld, one-person ram.

- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotguns ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as identified as defined in Penal Code § 30510 and Penal Code §30515, with the exception of standard-issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) “Flashbang” grenades and explosive breaching tools, “tear gas”, and “pepper balls,” excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and Long Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- (16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

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707.2 POLICY

It is the policy of the Santa Maria Police Department (the “Department”) that members of this Department comply with the provisions of Government Code Sections 7070-7075 and this Military Equipment Use Policy with respect to military equipment. The Military Equipment Use Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police shall designate a member of this Department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying Department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of the Santa Maria 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.

707.4 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 Use Policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed Military Equipment Use 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).

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The Military Equipment Use 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.

707.5 COORDINATION WITH OTHER JURISDICTIONS

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 must comply with their respective military equipment use policies when rendering assistance.

707.6 ANNUAL REPORT

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

The 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

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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.

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.

707.7 MILITARY EQUIPMENT USE CONSIDERATIONS

1. The military equipment acquired and authorized by the Department is:
 - (a) Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - (b) Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
2. Military equipment shall only be used by a Department employee after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

707.8 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.

707.9 USE IN EXIGENT CIRCUMSTANCES

In exigent circumstances and with the approval of the Chief of Police or his/her designee, the Police Department may acquire, borrow and/or use military equipment that is not included in the Military Equipment Use Policy.

If the Police Department acquires, borrows, and/or uses military equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:

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- (a) Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
- (b) If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 60 days after the initial notification to the City Council, and receive approval, as applicable, from the City Council.
- (c) Include the military equipment in the Department's next annual military equipment report.

707.10 POLICY COMPLIANCE

1. Department supervisors and managers will ensure that all Department members comply with this Policy. The Professional Standards Lieutenant will conduct a review of Department compliance annually in preparation for the annual report. The Chief of Police or designee will be notified of any Policy violations and, if needed, the violation(s) will be administratively investigated in accordance with Department policy. All instances of non-compliance will be reported to City Council via the annual military equipment report.
2. Any member of the public can register a question or concern regarding military use equipment by contacting the Santa Maria Police Department's Professional Standards Lieutenant via the department email (police@cityofsantamaria.org), in person, or telephone, (805) 928-3781 ext. 2297. A response to the question or concern shall be completed by the Department in a timely manner.
3. Any member of the public can submit a complaint to any member of the Department and in any form (i.e. in person, telephone (805) 928-3781 ext. 2297, email police@cityofsantamaria.org). Once the complaint is received, it should be routed to the Professional Standards Lieutenant in accordance with Department policy.

707.11 MAINTENANCE OF MILITARY EQUIPMENT SUPPLY LEVELS

When military equipment is deemed inoperable, or has been consumed (munitions, gas, etc.), it can be replaced with like kind equipment up to the quantity level authorized by City Council.

707.12 MILITARY EQUIPMENT INVENTORY

All military use equipment kept and maintained by the Department shall be cataloged in a way which addresses each of the following requirements:

1. The manufacturers' description of the equipment.
2. The capabilities of the equipment.
3. The purposes and authorized uses for which the Department proposes to use the equipment.

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4. The expected lifespan of the equipment.
5. The fiscal impact of the equipment, both initially and for on-going maintenance.
6. The quantity of the equipment, whether maintained or sought.

The following attachment, which is incorporated herein by this reference, contains a list of qualifying equipment for the Department:

ATTACHMENT A - Military Equipment Inventory