

Military Equipment

704.1 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).

704.1.1 DEFINITIONS

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

Governing body – The elected or appointed body that oversees the Bureau. In the case of a law enforcement agency of a county, including a district attorney's office, governing body means the board of supervisors of the county.

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 assault weapons 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.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- "Flashbang" grenades and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- 40mm projective launchers, "bean bag", rubber bullet and specialty impact munition (SIM) weapons.

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

704.2 POLICY

It is the policy of the Orange County District Attorney that members of its Bureau of Investigations comply with the provisions of Government Code § 7071 with respect to military equipment.

704.3 MILITARY EQUIPMENT COORDINATOR

The Bureau Chief should designate a member of the Bureau 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 Bureau equipment that qualifies as military equipment in the current possession of the Bureau, or the equipment the Bureau 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 Orange County District Attorney (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 Bureau's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Bureau Chief and ensuring that the report is made available on the OCDA website (Government Code § 7072).

704.4 MILITARY EQUIPMENT CONSIDERATIONS

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

704.5 MILITARY EQUIPMENT INVENTORY

The following, more fully described and incorporated into this policy in Attachments constitutes a list of qualifying equipment for the Bureau:

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- Unmanned, remotely piloted, powered aerial or ground vehicles
- Assault weapons defined under Penal Code § 30510 and Penal Code § 30515
- 40 mm Launchers
- Pepperball Launchers

704.6 APPROVAL

The Bureau Chief 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 Bureau Chief or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the bureau 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 Bureau.
- (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.

704.7 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this Bureau shall be approved for use and in accordance with Bureau policy. Military equipment used by other jurisdictions that are providing mutual aid to the Bureau shall comply with their respective military equipment use policies in rendering mutual aid.

704.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Professional Standards Commander 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).

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The Professional Standards Commander shall also make each annual military equipment report publicly available on the bureau website for as long as the military equipment is available for use. The report shall include all of the following information for the preceding calendar year.

- (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 policy, and any actions taken in response.
- (d) The total annual cost of 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 law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

704.9 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Bureau shall hold at least one well-publicized and conveniently located community engagement meeting, at which the public may discuss and ask questions regarding the annual report and the Bureau's funding, acquisition, or use of military equipment.

704.10 COMMUNITY CONCERNS

The public may submit questions or concerns to the Orange County District Attorney's Office, Bureau of Investigation regarding the Bureau's use of each type of military equipment by email to ProfessionalStandardsDivision@ocdapa.org or mail to Professional Standards Division, 300 N. Flower St., Santa Ana, CA 92703. The Bureau's Professional Standards Division will ensure the Bureau responds in a timely manner to any submitted questions or concerns.