

Military Equipment

710.1 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).

710.1.1 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 items designed to remove a lock, such as bolt cutters, or 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 identified as assault weapons 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.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- "Flashbang" and explosive breaching tools.
- "Tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- The following projectile launch platforms and their associated munitions: 40mm projectile 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.

710.2 POLICY

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

710.3 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 Modesto 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.

710.4 MILITARY EQUIPMENT INVENTORY

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

[Insert attachment here]

710.5 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

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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.

This policy was accepted by the City of Modesto's Governing body on May 3rd, 2022.

710.6 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 in accordance with Department Policy 304 to this Department and/or operating in conjunction in a law enforcement capacity with this Department, shall comply with their respective military equipment use policies.

710.7 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). This report will be submitted annually on or before May 3rd.

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.

710.8 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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710.9 COMPLIANCE

Department Supervisory Staff will ensure that all Department members comply with this policy. The Internal Affairs Unit will conduct an annual audit for any non-compliance. The Chief of Police or designee will be notified of any policy violations and, if needed, the violation(s) will be referred to the Internal Affairs Unit and handled in accordance with Department Policy 1020 (Personnel Complaints) and Policy 340 (Code of Conduct). All instances of non-compliance will be reported to City Council via the annual military equipment report.

Any member of the public can register a question or concern regarding military use equipment by contacting the Modesto Police Department's Internal Affairs Unit at 209-572-9500. A response to the question or concern shall be completed by the Department in a timely manner.

710.10 MILITARY EQUIPMENT USE SUPPLY LEVELS

When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 10% of stock in a calendar year without City Council approval to maintain essential availability for the Department's needs.

710.11 REVISIONS

Adopted April 2, 2022

- Revised January 6, 2023