

Military Equipment

708.1 PURPOSE AND SCOPE

The purpose of this policy ("Policy") is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment pursuant to Assembly Bill 481 ("AB 481") (California Government Code section 7070, et seq.).

708.1.1 DEFINITIONS

Definitions related to this Policy include those provided in Government Code section 7070, and as follows:

Governing body – The City of Ontario City Council ("City Council").

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 section 30510 and Penal Code section 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 the City Council to require additional oversight.

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708.2 POLICY

It is the Policy of the City of Ontario Police Department ("Department") that members of this Department comply with the provisions of Government Code section 7070 et seq. with respect to the funding, acquisition, and use of military equipment.

708.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police will 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 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 equipment the Department intends to acquire, that requires approval by the City Council.
- (c) Conducting an inventory of all military equipment annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of the Department.
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting; and
 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.

708.4 MILITARY EQUIPMENT INVENTORY

The list of qualifying military equipment for the Department is attached to this Policy.

708.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the City Council by way of an ordinance adopting the Policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed Policy is submitted to the City Council and is available on the Department website at least thirty (30) days prior to any public hearing concerning the military equipment at issue. The Policy must be approved by the governing body prior to engaging in any of the following:

- a) Requesting military equipment made available pursuant to 10 USC § 2576(a).

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- 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 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.

708.6 COORDINATION WITH OTHER JURISDICTIONS

On occasion, the Department may be required to assist other law enforcement agencies in a formal Law Enforcement Mutual Aid Request ("LEMA") or support with day-to-day operational collaboration (i.e., pursuits, investigative unit assistance, joint law enforcement operations, etc.). In certain mutual aid or operational collaboration circumstances, it may be necessary for sworn Department members to utilize military equipment in order to fulfill an assigned mission (i.e., civil unrest, SWAT requests, barricaded suspects in a vehicle, etc.). When sworn Department members utilize military equipment in instances of mutual aid or law enforcement collaboration, the following shall apply:

- a) Department members are required to adhere to the Department's Military Equipment Procedure and all policies and procedures outlined within the Department's Policy and Procedures Manual, regardless of operational jurisdiction.
- b) Should the Police Department request mutual aid from another law enforcement agency within the City and military equipment is required during the course of the response, the following shall apply:
 - i. The Department will remain in charge of the overall incident command.
 - ii. The Incident Commander or designee will brief the supervisor from the assisting agency and inform them of the mission, enforcement posture, and any pertinent information related to the incident.
 - iii. The assisting agency will adhere to their respective policies and procedures, particularly those governing the use of military equipment.
 - iv. If the Incident Commander or their designee is informed of or witnesses the utilization of military equipment by an assisting agency inconsistent with the guidelines set forth in this

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procedure, the Incident Commander may elect to cancel the request for mutual aid or re-assign the assisting agency to a different support mission.

708.7 COMPLIANCE

The use of military equipment is subject to individual Department Policies and Procedures, is restricted for use only in certain instances and, in some cases, only by certain units. It is incumbent upon incident commanders, supervisors, and individual officers to recognize the specific circumstances wherein military equipment should be employed to enhance the safety of the public and officers and to bring a critical incident to a safe resolution.

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

Administrative Investigations concerning complaints related to military equipment will be conducted in accordance with Department policy. These investigations may be subject to review by the Office of the Chief of Police to ensure that compliance with this military equipment procedure is maintained.

Any corrective action or discipline imposed as a result of a violation of this Department Procedure will be administered in accordance with the department policy, relevant employee organization memorandum of understanding (MOU), Civil Service Rules, and state law.

708.8 COMPLAINT PROCESS

In some instances, the application and use of military equipment can cause questions and/or concerns for members of the community. It is of vital importance that community members' questions regarding the application and use of military equipment are addressed.

The Department is committed to full and fair investigation of citizen complaints. As such, the Department has sound internal procedures for thorough and impartial investigations of citizen complaints. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency maintained by the Department.

Complaints directly related to the application or use of military equipment shall be handled in accordance with department policy. The Department values open communication and transparency. Community questions and/or concerns regarding the application and use of specified military equipment should be addressed in the following manner:

- a) Via the Department internet website where the public can email specific military equipment related questions to the Department.
- b) At pre-determined Community Engagement Meetings related to military equipment.
- c) At City-Council Meetings related to military equipment.

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d) In all other circumstances, the public should be directed to the Department Military Equipment Procedure and Annual Military Equipment Report available on the Department's internet website.

708.9 ANNUAL REPORT

The Department shall submit to City Council an annual military equipment report for each type of military equipment approved by the City Council within one (1) year of approval, and annually thereafter for as long as the military equipment is available for use.

The Department shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The Commanding Officer or their designee shall be responsible for the preparation and submission of the annual military equipment report. The annual military equipment report shall, at a minimum, include the following information for the immediate previous 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, consistent with state law employee privacy restrictions.
- 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.
- g) Within thirty (30) days of submitting and publicly releasing the annual military equipment report, the Department shall hold at least one (1) 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.
- h) The City Council will determine, based on the annual military equipment report, whether each type of military equipment identified in the report has complied with the standards for approval as set forth by AB 481. If the City Council determines that a type of military equipment identified in the annual military equipment report has not complied with the standards as set forth by AB 481, it may either disapprove a renewal of the authorization for that type of military equipment or require modifications to this military equipment use procedure in a manner that will resolve lack of compliance.