
Military Equipment

706.1 POLICY

It is the policy of the Santa Clara County Sheriff's Office to have legally enforceable safeguards, including transparency, oversight, and accountability, in place to protect the public's welfare, safety, civil rights, and civil liberties with respect to the funding, acquisition, and use of equipment defined by statute as military equipment. The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input. The members of this office will comply with the provisions of Government Code § 7070, et. seq. with respect to military equipment.

706.2 PURPOSE AND SCOPE

The purpose of this policy is to provide rules for the approval, acquisition, use, and reporting requirements of military equipment, as outlined in Government Code § 7070, et. seq., in order to safeguard the public's welfare, safety, civil rights, and civil liberties.

706.3 DEFINITIONS

The definitions related to this policy are defined in Government Code § 7070.

Governing body – The elected or appointed body that oversees the Office, which is the County of Santa Clara Board of Supervisors [Government Code § 7070(a)].

Law Enforcement Agency – Among other entities encompassed, a Sheriff's Office [Government Code § 7070(b)(2)].

Military equipment – Defined military equipment includes, but not limited to, the following [Government Code § 7070(c)(1)-(15)]:

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

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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 subdivision.
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 shotgun ammunition is specifically excluded from this subdivision.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in § 30510 and §30515 of the Penal Code, 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 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 "pepperballs," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and Long Range Acoustic Devices (LRADs).
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.

706.4 MILITARY EQUIPMENT COORDINATOR

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

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1. Acting as liaison to the governing body for matters related to the requirements of this policy.
2. Identifying equipment that qualifies as military equipment in the current possession of the Sheriff's Office, or the equipment the Sheriff's Office intends to acquire that requires approval by the governing body.
3. Conducting an inventory of all military equipment at least annually.
4. Collaborating with any allied agencies that may use military equipment within the jurisdiction of Santa Clara County Sheriff's Office (Government Code § 7071).
5. Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - a. Publicizing the details of the meeting.
 - b. Preparing for public questions regarding the Sheriff's Office funding, acquisition, and use of equipment.
6. Preparing the annual military equipment report for submission to the governing body and ensuring that the report is made available on the Sheriff's Office website (Government Code § 7072).

706.5 APPROVAL FOR FUNDING, ACQUISITION, AND USE

The Sheriff or 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 Sheriff or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and shall make the proposed policy available on the office website at least 30 days prior to any public hearing concerning the military equipment at issue. The military equipment policy must be approved by the governing body prior to engaging in any of the following [Government Code § 7071]:

1. Requesting military equipment made available pursuant to 10 U.S.C. § 2576a.
2. 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.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this office.
5. Using any new or existing military equipment for a purpose, in a manner, or by a

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person not previously approved by the governing body.

6. 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.
7. Acquiring military equipment through any means not provided above.

Notwithstanding the above, the Sheriff's Office may acquire military equipment without first obtaining Board approval in the following situations:

1. In the event of an emergency, the Sheriff's Office may acquire additional stock of previously Board-approved military equipment without further Board approval only if the Sheriff determines that doing so is necessary to respond to the emergency.
2. If there is an unanticipated exhaustion or reduction in the stock of previously Board-approved ammunition, flash bangs, or chemical agents covered by this policy that would impair the Sheriff's Office's ability to maintain essential public safety functions or ensure the safety and security of the jails, the Sheriff's Office may acquire the minimum additional stock necessary to maintain these functions until Board approval can be obtained. This exception applies only to ammunition, flash bangs, or chemical agents, and does not permit the Sheriff's Office to acquire any other military equipment without prior Board approval.

706.6 MILITARY EQUIPMENT USE CONSIDERATIONS

Military equipment shall only be used by a Sheriff's Office employee and only after the completion of any required training regarding use of the equipment identified in the appendices, including any course required by the Commission on Peace Officer Standards and Training (POST), unless exigent circumstances arise. The military equipment acquired and authorized by the Santa Clara County Sheriff's Office 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.

Use of this military equipment is governed by the most current version of this Military Equipment Policy (General Order 706) implemented by the Sheriff's Office. The most current versions of the associated policies are available to the public on the Santa Clara County Sheriff's Office webpage (<https://countysheriff.sccgov.org/about-us/so-policies-procedures>).

706.7 MILITARY EQUIPMENT REPORTING

Upon approval of a military equipment policy, the Sheriff or the authorized designee shall

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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].

1. The Sheriff's Office shall also make each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use.
2. 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 Sheriff's Office intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

706.8 COMMUNITY ENGAGEMENT

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

706.9 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of the Sheriff's Office shall be approved for use and in accordance with this policy when used in conjunction with other jurisdictions.

When Sheriff's Office Receives Mutual Aid: When mutual aid assistance is provided in support of a Sheriff's Office incident, the Sheriff's Office shall retain full operational command and control over responding agency personnel and resources. The following guidelines will safeguard against military equipment being used during a Sheriff's Office

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incident in County jurisdiction that is outside the scope of approved use.

1. Assisting law enforcement agencies and any associated military equipment would be used under the guidelines of their respective agency policies, however, the deployment of these assets will be coordinated, directed, and managed through the Sheriff's Office Incident Commander.
2. The Incident Commander will make every attempt to ensure military equipment is deployed in a manner consistent with the Sheriff's Office policy and in a manner approved by the governing body through communication with assisting law enforcement liaison officers.

When Sheriff's Office Provides Mutual Aid: When the Sheriff's Office provides mutual aid assistance to another law enforcement agency, Sheriff's Office personnel and resources will be coordinated, directed, and managed through the Incident Commander for the agency of jurisdiction in conjunction with a Sheriff's Office liaison officer. The following guidelines will safeguard against prohibited uses of Sheriff's Office military equipment when providing mutual aid:

1. Sheriff's Office personnel shall adhere to Sheriff's Office policies on the use of military equipment and the other associated policies (Use of Force, etc.) at all times regardless of an outside request to do so.
2. Sheriff's Office personnel and military equipment shall not be used if the mutual aid request is in violation of Sheriff's Office policies.
3. A Sheriff's Office liaison officer will be assigned and remain with the allied agency's Incident Commander for the duration of the involvement by the Sheriff's Office.
4. The liaison officer will assist with the coordination of assets and maintain a level of oversight with respect to Sheriff's Office policies.

Use of Military Equipment Not Possessed by the Sheriff's Office: There may be instances where the Sheriff's Office may need the assistance of military equipment not currently possessed by the Sheriff's Office in order to limit safety risks to both the public and deputies in an emergency situation. Additionally, the assistance of certain equipment can help mitigate liability on behalf of the Sheriff's Office and County by minimizing or limiting potential force encounters. One such example is that the Sheriff's Office does not currently possess unmanned aerial vehicles (UAV). This particular military equipment is a benefit as it can assist in searching an area for a wanted or violent subject where the Sheriff's Office would otherwise have to deploy deputies and apprehension canines to search for a suspect and potentially escalating the situation into a force encounter. The following guidelines will safeguard against blatant misuse of military equipment not currently possessed by or authorized for use by the Sheriff's Office:

1. The Sheriff's Office will not employ the assistance of such equipment solely as a work around to avoid governing body approval but may do so as a resource

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in seeking a quick resolution to a rapidly evolving emergency situation.

2. The request for assistance of such equipment shall be made through a field supervisor or watch commander.
3. The nature and circumstances of the crime shall be taken into consideration prior to making any request to weigh the use of equipment not covered in this policy against public safety concerns.
4. Sheriff's Office personnel shall not operate any military equipment not outlined in this policy and a liaison shall be assigned to the assisting agency in their deployment military equipment.
5. In every instance, deployment of military equipment must comply with the legal and policy parameters described in this policy, including, but not limited to, the use of reasonable and proportional force, the use of de-escalation and alternatives to force where feasible, the limits on the less-lethal weapons in crowd control settings, and other requirements described in these policies and in compliance with legislation.

706.10 INQUIRY AND COMPLAINT PROCESS

Inquiries can be made the following ways:

1. In person at Sheriff's Office Headquarters or at any substation.
2. By telephone to the Sheriff's Office at (408) 808-4400.
3. By email at militaryequipmentinquiries@shf.sccgov.org.
4. By mail to:

Santa Clara County Sheriff's Office
Re: Military Equipment Coordinator
55 W. Younger Ave
San Jose, CA 95110

General questions or concerns will be routed to the Military Equipment Coordinator for response within 30 days. The Military Equipment Coordinator shall track all inquiries and responses, and incorporate summaries of any concerns received regarding military equipment into the Military Equipment Report.

A complaint or allegation of misconduct by any member of the Santa Clara County Sheriff's Office related to the use of military equipment can be made in the following ways:

1. In person at Sheriff's Office Headquarters or at any substation.

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2. By telephone to the Sheriff's Office Internal Affairs Unit at (408) 918-9000.

3. By mail to the Sheriff's Office Internal Affairs Unit at:

Santa Clara County Sheriff's Office
Attn: Internal Affairs Unit
2460 N. First Street, Suite 280
San Jose, CA 95131

4. Via the online Internal Affairs Unit Complaint Form at:

<https://countysheriff.sccgov.org/internal-affairs-unit-complaint-form>

The Sheriff's Office will investigate any allegations of noncompliance with the Military Equipment Use Policy. The Military Equipment Coordinator shall track all complaints and incorporate summaries of any complaints regarding military equipment into the Military Equipment Report.

The Military Equipment Coordinator will conduct an annual audit to ensure the Military Equipment Use Policy is followed and the items listed in the Military Equipment Report are utilized within policy and in accordance with applicable laws. Any potential violation of policy or law will be investigated accordingly. The Military Equipment Coordinator will include the results of the annual audit in the Military Equipment Report.

The Military Equipment Use Coordinator will include information regarding any violations of this Policy and any actions taken in response to any such violations in the Military Equipment Use Report.

706.11 MECHANISMS TO ENSURE COMPLIANCE

The Sheriff's Office has the following internal and external mechanisms in place to ensure compliance with Departmental policy and the law:

1. In addition to the annual audit performed by the Military Equipment Use Coordinator, Division commanders will be tasked with auditing the use of military equipment by their staff to ensure compliance.
2. The Sheriff's Office has consistently had a means for the public to submit questions or complaints which are outlined in the inquiry and complaint process above. Allegations of misconduct are objectively investigated by the Internal Affairs Division and can potentially lead to employee discipline up to and including termination depending on the findings.
3. The Office of Correction and Law Enforcement Monitoring (OCLEM) may review reports and offer opinions.

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4. The Sheriff's Office will submit findings in its annual report to the Board of Supervisors.
5. Current legislation (SB2) establishes a process for the California Peace Officers Standards and Training (POST) to decertify peace officers found culpable of serious misconduct including, but not limited to, physical abuse and/or excessive force.

706.12 MILITARY EQUIPMENT INVENTORY

The following is the current qualifying list of equipment utilized by the Sheriff's Office. The Office does not currently possess controlled or prohibited equipment acquired from the United States military. Instead, the Office's current inventory consists of commercially available equipment or military equipment modified for law enforcement uses. Please refer to the attached lists:

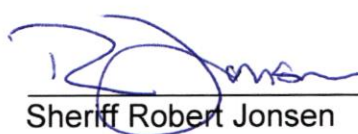
- Appendix A – Military Equipment List (Enforcement Bureau)
- Appendix B – Military Equipment List (Custody Bureau)
- Appendix C – Military Equipment List (Stanford University)

706.13 POLICY REVIEW

This policy shall be reviewed and updated as necessary.

706.14 POLICY TRACKING

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Sheriff Robert Jonsen

7/17/2023

Date