

Military Equipment

709.1 PURPOSE AND SCOPE

California Government Code section 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing body for approval.

California Government Code §7070(c) provides a list of equipment types that are considered to be "military equipment" for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the Foster City Police Department, or reasonably likely to be deployed in Foster City by its law enforcement partners.

709.1.1 DEFINITIONS

- California Government Code section 7070(d) defines a Military Equipment Use Policy as a publicly released written document that includes, at a minimum, all of the following:
 1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
 2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
 3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
 4. The legal and procedural rules that govern each authorized use.
 5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.
 6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
 7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

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California Government Code § 7070(c) defines Military Equipment as any of 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 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 Sections 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 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 the 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.

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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.

709.2 POLICY

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

709.3 ANNUAL MILITARY EQUIPMENT REPORT

Pursuant to California Government Code §7070(d)(6), and in accordance with California Government Code §7072, the Foster City Police Department will submit to the Foster City City Council an Annual Military Equipment Report and will make that report publicly available on its internet website. The Annual Military Equipment Report required by this section will remain publicly available on the City's internet website for as long as the military equipment is available for use. In addition, within 30 days of submitting and publicly releasing an Annual Military Equipment Report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting. The Annual Military Equipment Report will 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 law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Foster City City Council will use the Annual Military Equipment Report as a mechanism to ensure the Foster City Police Department's compliance with this Military Equipment Use Policy, and to help it determine whether to approve, revise, or revoke components of the Military Equipment Use Policy for the subsequent year.

709.4 COLLABORATION OR COORDINATION WITH OTHER AGENCIES

Law enforcement agencies responding to a call for mutual aid or who participate in collaboration with Foster City Police Department within the City of Foster City shall adhere to their own policies on the use of military equipment.

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709.5 POLICY COMPLIANCE

Government Code section 7070 requires that this policy specify the mechanisms to be used by the Department to ensure compliance with this policy. Complaints regarding violations of this policy are subject to investigation and discipline in accordance with Policy 1020, and other policies of the Department related to officer discipline. Complaints, questions, or other inquiries can be made as described below in the Public Involvement section. Further, The Chief will designate a Military Equipment Coordinator, whose responsibilities are described herein, which will include assisting with ensuring compliance with this policy.

709.6 PUBLIC INVOLVEMENT

Pursuant to California Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment in this policy by any of the following means:

- (a) Via email to: Policedepartment@fostercity.org
- (b) Via phone call to: 650-286-3300
- (c) Via mail sent to: Foster City Police Department Attn: Military Equipment Coordinator
1030 E. Hillsdale Blvd. Foster City Ca 94404

The Foster City Police Department is committed to responding to complaints, concerns and/or questions received through any of the above methods in a timely manner.

709.7 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 Foster City Police Department (Government Code § 7071).
- (e) 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 department's funding, acquisition, and use of equipment.

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- (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.

709.8 MILITARY EQUIPMENT INVENTORY

Pursuant to Government Code section 7070(d), the below provides a description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment. This section will include the purposes and authorized uses, the fiscal impact, the legal and procedural rules that govern the use, and the training required, for each type of military equipment. This section of the Military Equipment Use Policy is divided into two sections.

Section One lists qualifying equipment that is owned and/or utilized by the Foster City Police Department.

Section Two lists qualifying equipment not previously listed in this policy, that is not owned or regularly utilized by the Foster City Police Department, but which is known to be owned and/or utilized by the North Central Regional SWAT (NCR SWAT) Team, for which the Foster City Police Department is a participating agency. While the equipment in Section Two is not purchased, owned, or maintained by the Foster City Police Department, it could be used in the City of Foster City if NCR SWAT is deployed, and is therefore included in this Military Equipment Use Policy. It is important to note that NCR SWAT is generally only deployed in extreme circumstances such as active shooter incidents, hostage situations, and the execution of high risk search and arrest warrants. The equipment NCR SWAT possesses is rarely deployed but could prove essential to emergency operations when needed.