

Military Equipment Use

702.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use, training, approval, and procurement of existing military equipment acquisitions in accordance with California Assembly Bill 481 (AB-481), codified in California Government Code sections 7070-7075. Additionally, this policy outlines existing military equipment within the Bureau's inventory.

702.2 POLICY

It is the policy of the San Luis Obispo County District Attorney's Office that members of this agency comply with the provisions of Government Code 7071 with respect to military equipment.

702.3 PHILOSOPHY

It is the policy of the Bureau to conduct law enforcement duties in a transparent manner, including the purchase and use of military equipment. 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 the use, procurement and funding of military equipment should take into consideration the public's welfare, safety, civil rights and allow for public input.

Before seeking authorization for purchasing military equipment, the Bureau shall make the following considerations:

- ◦ The equipment is necessary because there is no reasonable alternative that could provide the same objective of investigator and civilian safety.
- The equipment is reasonably cost effective compared to alternatives that can achieve the same objectives of investigator and civilian safety.

The procurement or use of any new type of military equipment, not already in the Bureau's possession, or approved under this policy, will require the approval of the San Luis Obispo County Board of Supervisors as outlined in Section 7071(a)(1)(A)- 7071(a)(1)(G).

702.4 DEFINITIONS

Governing Body: The San Luis Obispo County Board of Supervisors.

Military Equipment: includes but is not limited to the following:

- (a) (a) Specialized firearms and ammunition of less than .50 caliber commonly referred to as semi-automatic rifles that are issued to and used by investigators in performance of their duties.
- (b) The following projectile launch platforms and their associated munitions: 40mm projectile launchers.

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- (c) Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.

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

702.5 GUIDELINES FOR USE

The Bureau retains and employs a small amount of "military equipment" as defined above to assist in safely achieving the Bureau's mission to effectively support the District Attorney in executing the duties and obligations of the office. This mission is accomplished by providing a full range of professional law enforcement and investigative support services and presenting accurate and timely information to support prosecutorial decisions, which ensure continuing public trust in the judicial process.

It is the Bureau's primary goal to execute our duties without using force or by using the minimal amount of force possible. Violations of the Military Equipment Use Policy by members of the Bureau may result in sanctions including an internal investigation, suspension, or termination. The actions of peace officers may also be subject to review for violations of California law by the San Luis Obispo County District Attorney's office and/or the California State Attorney General's Office. Additionally, the U.S. Attorney has the authority to investigate and prosecute violations of federal civil rights laws under color of authority.

The Bureau recognizes enforcement events and mutual-aid incidents can be unpredictable and dynamic in nature. A variety of equipment options can greatly assist supervisors and investigators with resolving these incidents in a safe manner. The described military equipment is for use only in certain instances and in some cases only by certain individuals. While this procedure is wide-ranging, it is not all inclusive. There may be instances wherein unpredictable critical incidents demand the need for incident commanders to authorize equipment, including military equipment, to be used in a manner not outlined within this procedure. When scrutinizing those instances, the judgment of the incident commander shall be influenced by the totality of the circumstances, public safety, officer safety, civil rights, and information available at the time.

It is incumbent upon incident commanders, supervisors, individual investigators, and specific units to recognize the 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.

702.6 MILITARY EQUIPMENT USE POLICY

Pursuant to California Government Code §7070, the San Luis Obispo District Attorney Office will submit a Military Equipment Use Policy for approval to the governing body annually.

702.7 APPROVAL

The Chief of Investigations or the authorized designee shall obtain approval from the San Luis Obispo County Board of Supervisors by way of an ordinance adopting the military equipment

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policy. As part of the approval process, the Chief of Investigations or the authorized designee shall ensure the proposed military equipment policy is submitted to the San Luis Obispo County Board of Supervisors and is available on the District Attorney's Office 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 office.
- (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.

702.8 COORDINATION WITH OTHER JURISDICTIONS

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

702.9 USE IN EXIGENT CIRCUMSTANCES

In exigent circumstances and with the approval of the Chief of Investigations or his/her designee, the San Luis Obispo District Attorney's Office may acquire, borrow and/or use Military Equipment that is not included in the Military Equipment Use Policy. If the San Luis Obispo District Attorney's Office acquires, borrows, and/or uses Military Equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:

- (a) Provide written notice of that acquisition or use to the governing body within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
- (b) If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the governing body within 90 days following

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the borrowing, acquisition and/or use, and receive approval, as applicable, from the governing body.

(c) Include the Military Equipment in the San Luis Obispo District Attorney's Office's next annual Military Equipment Report.

702.10 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Investigations 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).

The Chief of Investigations or the authorized designee should also make each annual military equipment report publicly available on the San Luis Obispo District Attorney's Office 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 San Luis Obispo District Attorney's Office inventory.