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# Military Equipment

## 709.1 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).

### 709.1.1 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 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 § 30510 and Penal Code § 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 a governing body or a state agency to require additional oversight.

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### **709.2 POLICY**

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

### **709.3 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 Vacaville 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.

### **709.4 MILITARY EQUIPMENT INVENTORY**

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

[Insert attachment here]

### **709.5 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 military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

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- (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.

### **709.6 MILITARY EQUIPMENT USE CONSIDERATIONS AND ACCOUNTABILITY**

(a) The military equipment acquired and authorized by the Department 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.

(b) Military equipment shall only be used by a Department employee after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

(c) The Department recognizes that critical incidents are unpredictable and can be very dynamic in nature. A variety of military equipment options can greatly assist Incident Commanders, Officers, and specific units in bringing those incidents to a swift resolution in a safe manner. The use of military equipment is restricted for use only in certain instances and in some cases only by certain units. 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 military equipment to be used in a manner not outlined within this policy. In scrutinizing those particular instances, the judgment of the Incident Commander influenced by the totality of the circumstances, public safety, officer safety, civil rights, and information available at the time will be used.

(d) It is incumbent upon Incident Commanders, Supervisors, individual Officers, and specific units to recognize the particular 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.

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(e) Department members are bound to adhere to Department Policy, in addition to state and local laws and ordinances when employing the use of military equipment at any

### **709.7 USE IN EXIGENT CIRCUMSTANCES**

In exigent circumstances and with the approval of the Chief of Police or designee, the department may acquire, borrow and/or use military equipment that is not included in the military equipment inventory section of this policy.

In accordance with this section, if the department acquires, borrows, and/or uses military equipment in exigent circumstances, it must take all of the following actions:

- a) Provide written notice of the acquisition or use to the City Council within 30 days following 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 policy to the City Council within 90 days following the borrowing, acquisition and / or use, and receive approval for continued use.
- c) Include the equipment in the department's next annual military equipment report

### **709.8 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment used by any member of the Vacaville Police Department shall be equipment that has been approved by the governing body and in accordance with this policy. The Vacaville Police Department on occasion will request mutual aid from other law enforcement agencies. Agencies providing mutual aid in the City of Vacaville shall comply with their respective military equipment use policy.

### **709.9 FUNDING**

The Vacaville Police Department will follow the City of Vacaville Purchasing Policy and Procedures for purchases of military equipment previously approved by City Council. The Vacaville Police Department shall seek council approval for all new military equipment regardless of cost. The department has the ability to purchase and test out like equipment that has previously been approved from different manufacturers without council approval.

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### **709.10 ANNUAL REPORT**

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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).

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.

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.

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 policy in a manner that will resolve lack of compliance.

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### **709.11 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.

### **709.12 COMPLAINT PROCEDURE**

All complaints or concerns regarding this policy will be handled pursuant to the Department's normal complaint process outlined under Vacaville Police Department Policy 1020. Any questions about military equipment can be directed to the SWAT Commander by calling the Vacaville Police Department.