

SAN JOSÉ POLICE DEPARTMENT

Military Equipment Guidelines



May 6, 2022

Purpose

The purpose of these guidelines is to provide policies and procedures for the funding, approval, acquisition, reporting, and use of military equipment per Government Code §§ 7070 - 7073.

Definitions

Pursuant to California Government Code § 7070, the following definitions are applicable **only** to the Department's current military equipment guidelines, inventory, and potential future military equipment acquisitions for operational needs.

A. "Governing body" means the San José City Council and Mayor.

B. "Military Equipment" (ME) falls under the following categories:¹

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.

¹ https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=12.8.&article=

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.
 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.
- C. “Military Equipment Use Policy” refers to this Department Military Equipment Guideline and means a publicly released, written document governing the use of military equipment by the Department. The Department Military Equipment Guideline incorporates by reference the Military Equipment Inventory because the Inventory sets out the fiscal impact for each item of military equipment included in the Military Equipment Guideline including initial costs of purchasing the equipment and estimated annual costs of maintaining the equipment as required by California Government Code Section 7070(d)(3).
- D. “Law enforcement agency” means any of the following:
1. A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

2. A sheriff's department.
3. A district attorney's office.
4. A county probation department.

E. "The Department" refers to the San José Police Department.

Military Equipment Use Considerations

The ME acquired and authorized by the Department shall be:

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

Purchasing

The Department shall seek governing body approval for military equipment, including, but not limited to, grant purchases, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

1. The Department has the authority to apply for grant funding for listed ME prior to obtaining governing body approval. Once a grant application has been approved by the funding source, the item will be brought before the governing body for final approval.
2. The Department has the authority to apply for ME funding prior to obtaining governing body approval in the case of exigent circumstances. The Department shall obtain governing body approval as soon as practicable.

3. For all previously-approved ME, the Department has the authority to purchase replenishment items throughout the year as needed to maintain adequate inventory due to use, breakage, and expiration.

Collaborating with other jurisdictions

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy. Other agencies should have their own military equipment use policies in place before use in our jurisdiction.

Compliance

The Assistant Chief of Police is the head of the Military Equipment Program. The Special Operations Division Captain will ensure a quarterly audit is conducted in conjunction with Program Manager reporting. This ME Audit Report will be submitted to the Assistant Chief of Police for review. This ME Audit Report will be available to the IPA at their request.

Transparency

1. The Department will report to the governing body annually on equipment and usage. Reports and inventory will be current as of June 30th of each year.
2. The annual report will align with Government Code § 7072 to include the following:
 - 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.
3. The Department intends to keep the public informed about the agency's ME program through a dedicated page on the Department's website (SJPD.org). The ME webpage will list the policy, provide a copy of the most recent quarterly report, and provide the most recent inventory.
4. The Department will provide a web link on the Military Equipment webpage to The Department Internal Affairs and San José Independent Police Auditor. Any member of the public can register a question or concerns regarding ME use through The Department Internal Affairs or the San José Independent Police Auditor. Outcomes of the complaint process will follow the current practice of publishing employee discipline on the City of San José's webpage.²
5. Within 30 days of submitting and publicly releasing an annual military equipment report, or amendment, pursuant to this section, the Department will hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

² <https://www.sanjoseca.gov/your-government/departments/employee-relations/discipline-process/formal-discipline-reports>

Policy & Procedures

It is the policy of the Department that duly trained and authorized agency personnel may only deploy Military Equipment for legitimate law enforcement purposes as specified herein, including training and demonstrations/exhibitions. All Military Equipment deployments and use shall comply with applicable law and the policy provisions provided herein.

1) Unmanned, remotely piloted, powered aerial or ground vehicles.

a. Unmanned Aircraft Systems (UAS)

i) Purposes and authorized uses:

- (1) Post-incident crime scene preservation and documentation.
 - (a) A search warrant will be sought when processing a crime scene where a reasonable expectation of privacy exists (e.g., a residence, a private place of business which is not open to the general public, or a medical facility).
- (2) Explosive Ordinance Disposal missions.
- (3) Incidents involving potentially hazardous materials.
- (4) Search and Rescue operations.
- (5) Public safety and life preservation missions to include barricaded suspects, hostage situations, active shooter incidents, and high-risk search warrants or tactical operations.
- (6) The apprehension of armed, dangerous, and violent fleeing suspects who pose an imminent danger to the public.
- (7) Disaster response and recovery to include natural, technical, or human caused disasters.
- (8) Authorized training missions and/or flight demonstrations.
- (9) Authorized special events.
- (10) In response to specific requests from local, state, or federal fire authorities for fire response and prevention.

(11) When there is probable cause to believe that:

- (a) The UAS will record images of a place, thing, condition, or event; and
- (b) That those images would be relevant in proving that a certain felony had occurred or is occurring, or that a particular person committed or is committing a certain felony and use of the UAS does not infringe upon the reasonable expectation of privacy.

(12) Remote Pilots in Command should be mindful of the reasonable expectation of privacy in a residence, covered/secluded backyard, or high-rise building, or private place of business that are not open to the general public, or a medical facility and should seek a search warrant prior to conducting a flight without exigent circumstances or consent.

(13) Pursuant to a search warrant.

(14) The UAS video surveillance equipment shall not be used:

- (a) For activities that do not have a legitimate public safety purpose.*
- (b) To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.*
- (c) To conduct personal business of any type.*
- (d) The UAS shall not be weaponized.*

(15) UAS activities will be performed in a manner consistent with the United States Constitution and applicable Federal laws and regulations, Executive Orders, and other Presidential directives.

(16) All flights will be authorized by a command officer, unless an exigency situation exists. A command officer will be notified immediately following or during an exigent flight.

ii) Legal and procedural rules:

- (1) All UAS's will only be operated by Department personnel who have been trained in the operation of the system, maintain FAA currency, possess a current FAA Part 107 certificate with a UAS rating, and are authorized by the UAS Program Manager (MERGE/Bomb Commander).
- (2) All agency personnel with UAS responsibilities, including command officers, will be provided training in the rules governing UAS use.

- (3) UAS activities will be performed in a manner consistent with the United States Constitution and applicable Federal laws and regulations, Executive Orders, and other Presidential directives. The San Jose Police Department's UAS Unit Guidelines and SJPD Duty Manual Section L 2702 Unmanned Aircraft System (UAS) govern the use of UAS's by Department personnel.

iii) Training:

- (1) The UAS Program Coordinator (Bomb Sergeant) shall conduct an annual qualification of all Department Part 107 pilots. At a minimum, the test shall be consistent with the National Institute of Standards and Technology (NIST) – Standard Test Methods for Aerial Systems. Pilots who do not participate in the qualification or fail to complete the qualification within the set parameters will not be eligible to pilot a Department UAS.

b. Remotely powered ground vehicles (bomb disposal robots)

i) Purpose and authorized uses:

- (1) Public safety and life preservation missions to include barricaded suspects, hostage situations, active shooters, suspicious packages/potential IEDs, and high-risk search warrants/tactical operations.

ii) Legal and procedural rules:

- (1) The following general procedures shall be utilized at all times while operating a remote control vehicle:

1. Only bomb technicians who have attended and successfully completed Hazardous Devices School (HDS) will operate a remote control vehicle in an operational environment.
2. Prior to all uses, including training sessions, Squad Technicians will verify that all controls and systems on the remote control vehicle are functioning properly using the Andros operations checklist.

- (1) Training sessions with only one Technician present do not require completion of the drive and articulator portion of the checklist as this equipment is not to be used when only one technician is present.

3. On Wednesdays, bi-weekly, the remote control vehicle and support equipment will be checked to make sure they are ready for use and all necessary supplies are present.
4. The Squad Commander will be advised as soon as practical of problems with the operating systems or damage to the remote control vehicle.

5. A copy of the equipment operating instructions will be maintained with the remote control vehicle.
6. In all situations, whether training, demonstration, or actual field events, two technicians will be present if the remote control vehicle is being moved.
7. Only one technician need be present in training situations. However, when only one technician is present, only the arm, and video & audio equipment will be used.
8. All personnel operating the remote control vehicles must be familiar with the safety and operating procedures included in the operation and maintenance manual.
9. Remote control vehicles will be operated only for public safety purposes, training, or demonstrations, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

iii) Training:

- (1) To meet Bomb Squad objectives, personnel will participate in mandatory training prior to using any Squad equipment. This training will consist of:
 - (a) Successful completion of the following, a forty hour (40) Hazardous Materials Technicians Course compliant with OSHA 29 CFR 1910.120 (q)(6)(iii).
 - (b) Successful completion of the two hundred forty (240) hour HDS Basic Course, provided by the Federal Bureau of Investigation (FBI), Hazardous Devices School in Redstone Arsenal, Huntsville, Alabama.
 - (c) Successful completion of the forty (40) hour Re-Certification Course, provided by the FBI, Hazardous Devices School in Redstone Arsenal, Huntsville, Alabama every thirty-six (36) months.

c. Remotely powered ground vehicles (tactical robots)

i) Purpose and authorized uses:

- (1) The small remote controlled vehicles maintained by the MERGE Unit represent valuable pieces of equipment that assist in de-escalating critical incidents.
- (2) Public safety and life preservation missions to include but not limited to barricaded suspects, hostage situations, active shooters, suspicious packages/potential IEDs, and high-risk search warrants/tactical operations.

ii) Legal and procedural rules:

(1) The following general procedures will be followed while operating the remote control vehicles:

1. No unauthorized personnel will be allowed to operate the remote control vehicle.
2. Only bomb technicians who have attended and successfully completed HDS will operate the remote control vehicle in an operational environment.
3. Only for public safety purposes or demonstrations, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

iii) Training:

(1) The MERGE Unit is responsible for training officers on the use of its ground robots. Training consists of 10 hours of instruction and practical use during advanced tactics training.

(2) These smaller robots are not specifically governed by federal or state laws for training. They are still restricted by the 4th Amendment.

2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

a. MRAP

i) Purpose and authorized uses:

(1) The MRAP is a specialized piece of equipment to be deployed in situations where its unique characteristics would be advantageous in protecting life and property or accomplishing the objectives of the Department. Examples of such incidents include events involving suspects deploying explosives, Improvised Explosive Devices and/or Vehicle-Borne Improvised Explosive Device; large scale rescue operations during times of manmade or natural disaster(s); mass casualty incidents; special or high-profile events that may be a target of domestic or international terrorism; and events requiring multiple armored vehicles.

(2) The MRAP should only be deployed in situations where the threat exceeds the capability of our regularly used armored vehicles and or incidents of an unusual occurrence that would demand its use. Examples include events involving suspects deploying explosives, Improvised Explosive Devices and/or Vehicle Borne Improvised Explosive Devices; large scale rescue operations during times of man-made or natural disaster(s); mass casualty incidents; special or high-profile events

that may be a target of domestic or international terrorism; and events requiring multiple armored vehicles.

ii) Legal and procedural rules:

(1) CA DMV Class B license.

(2) The use of the MRAP requires the approval of the Special Operations Captain, BFO Deputy Chief, or Assistant Chief of Police.

iii) Training:

(1) The MRAP is a unique vehicle and has distinctive driving characteristics due to its size, weight, and limited driver visibility. The driver of the MRAP is required to possess a valid Class B California driver's license.

(2) The MERGE unit will be responsible for training and certifying all drivers, maintaining a list of current certified MRAP operators, and providing the list of certified MRAP operators to Central Supply.

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.

a. Bearcat

i) Purpose and authorized uses:

(1) The BearCat is an armored vehicle built on a heavy-duty commercial truck chassis that is certified to defeat multi-hit attacks from pistol and rifle rounds. The BearCat can be used to transport officers to and from hostile situations, assist with the rescue and protection of officers or civilians, aid officers in active shooter situations, and provide assistance during other armed encounters. The BearCat is assigned to and maintained by the MERGE Unit but is available for patrol use in emergency situations.

ii) Legal and procedural rules:

(1) The use of the BearCat by Patrol under emergency circumstances must be approved by the Watch Commander.

(2) When the BearCat is used by Patrol, the Watch Commander will notify the MERGE Commander of its use within a reasonable time.

- (3) The BearCat may only be checked out by trained specialists and current or former MERGE officers, unless necessary for the immediate rescue of an injured officer or civilian or under similar extreme circumstances.
- (4) Any non-emergency pre-planned use of the BearCat must be approved in advance by the MERGE Commander or their designee. Central Supply personnel will review the list and confirm that the requesting officer is an approved operator prior to issuing the key.

iii) Training:

- (1) MERGE, in conjunction with the Specialist Program, will conduct periodic training and maintain a current list of trained personnel at Central Supply.

b. HMMWV

i) Purpose and authorized uses:

- (1) The HMMWV (High Mobility Multipurpose Wheeled Vehicle) is an armored vehicle built on a heavy-duty chassis that is certified to defeat multi-hit attacks from pistol rounds. The HMMWV can be used to transport officers to and from hostile situations, assist with the rescue and protection of officers/civilians, aid officers in active shooter situations and provide assistance during other armed encounters. The HMMWV is assigned to and maintained by the MERGE Unit and primarily assigned to the Tactical EMT Program but is available for use by Patrol in emergency situations.

ii) Legal and procedural rules:

- (1) The HMMWV can only be checked out by trained Tactical EMTs and current or former MERGE officers, unless necessary for the immediate rescue of an injured officer or under similar extreme circumstances.
- (2) Any non-emergency pre-planned use of the HMMWV must be approved in advance by the MERGE Commander or their designee. Central Supply personnel will review the list and confirm that the requesting officer is an approved operator prior to issuing the key.

iii) Training:

- (1) MERGE, in conjunction with the Tactical EMT Program, will conduct periodic training and maintain a current list of trained personnel at Central Supply.

4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

i) Purpose and authorized uses:

- (1) To provide a capability for defensive ballistic protection in indoor and outdoor environments, rescue platforms for elevated structure rescue, and rough terrain environments where certain equipment would be limited.
- (2) The tracked vehicle shall be used by MERGE team members in a manner consistent with Department policy and training. Furthermore, only MERGE team members who have completed the appropriate training, will operate the tracked vehicle.

ii) Legal and procedural rules:

- (1) Only for public safety purposes or demonstrations, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

iii) Training:

- (1) The MERGE unit will be responsible for training and certifying all drivers and maintaining a list of current certified tracked vehicle operators.
- (2) Training will be standardized per the manufacturer's requirements (when acquired).

5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

a. Command Vehicles

i) Purpose and Authorized Uses:

- (1) Mobile command vehicles are specialized pieces of equipment to be deployed in situations where their unique characteristics would be advantageous in providing the Incident Commander with a mobile base of operation, and the ability of enhancing the department's response to an incident. Examples of such incidents include but are not limited to planned; unplanned events; large scale rescue operations during times of man-made or natural disasters; major crime scenes; moments of civil unrest; Mutual Aid, mass casualty incidents, training scenarios, or incidents where the Incident Commander deems the deployment of the Command Vehicle necessary.
- (2) Command vehicles also act as dispatch locations for large-scale events. This is accomplished by sworn personnel or public dispatch officers that are assigned to the command vehicle, the Dispatch Response Team (DRT).
- (3) Command Vehicles should only be deployed in situations where the Designated Program Manager or Incident Commander have deemed the use of a Specified

Command Vehicle necessary to enhance the Department's ability to respond and resolve incidents of greater magnitude.

ii) Legal and procedural rules:

- (1) Valid California Driver's License.
- (2) The use of a Command Vehicle requires the notification to the Designated Program Manager where the vehicle is assigned or the approval of a Patrol Watch Commander.
- (3) In the event the Patrol Watch Commander authorized the use of the Command Vehicle through the chain of command, the Patrol Watch Commander will notify the Designated Program Manager of its use within a reasonable amount of time.

iii) Training:

- (1) Command Vehicles are a unique vehicle that have distinctive driving characteristics due to their size, weight, and limited driver visibility. The driver of the Command Vehicles is required to possess a valid California driver's license. Operators must also complete department authorized training in relation to the vehicle.
- (2) Operation of Command Vehicles is a collateral assignment and Department members will be responsible for training and certifying all drivers, maintaining a list of current certified CMV operators, and providing the list of certified Command Vehicle operators to the designated Program Manager.

6) Weaponized aircraft, vessels, or vehicles of any kind.

- a. None possessed

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.

a. Explosive Breaching

i) Purpose and authorized uses:

- (1) The positive use of explosive materials to create an opening through a wall, door or barrier to allow access by a tactical or rescue team. Explosive breaching is a tactical option and can be employed when a rapid entry is critical to the success of the mission. The option to use an explosive breach shall be at the discretion of the MERGE Commander or designee.

ii) Legal and procedural rules:

- (1) It is the policy of the Department to utilize explosive breaching only for official law enforcement purposes, and pursuant to State and Federal laws for storage and transportation.

iii) Training:

- (1) All Breachers shall attend an accredited 40-hour "Explosive Breaching" course prior to performing operational breaches of any kind. All Breachers shall train on a quarterly basis.

b. Breaching Shotgun

i) Purpose and authorized uses:

- (1) The breaching shotgun is a ballistic breaching method utilizing frangible ammunition to breach an opening. Ballistic shotguns are utilized by MERGE personnel during high-risk operations to gain entry into rooms and/or structures. MERGE utilizes a modified Remington 870 which includes a pistol grip, shortened barrel, and a specialized muzzle break. When properly deployed, the breaching shotgun provides officers with a method to rapidly breach an opening and immediately address a deadly threat while minimizing potential injury to other parties inside the structure.
- (2) Only specially trained MERGE personnel are authorized to employ a breaching shotgun. Absent exigent circumstances, the pre-planned use of a breaching shotgun on search warrants must adhere to the following protocol: In the event the use of a breaching shotgun is not pre-approved, the reasonableness of its use will be determined by the MERGE officer utilizing the breaching shotgun based on the totality of circumstances at the time.

ii) Legal and procedural rules: See Duty Manual Section L 2638 below at beginning of category 10.

- a. The use will be noted in the MERGE operations plan.
- b. The use will be reviewed and approved by the Team Leader, Sergeant, and Lieutenant.
- c. The use can be cancelled at any time by any MERGE operator involved in the operation.

iii) Training:

(1) The MERGE Unit is responsible for training officers on the use of the breaching shotgun, as well as maintaining a list of all certified operators. Training consists of 10 hours of instruction and practical use during advanced tactics training.

8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

a. None possessed

9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

a. None possessed

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.

All items in this category fall under Duty Manual section L 2638: Direct use of a Firearm

- When discharged in a safe manner at an approved range.
- When used for the humane destruction (euthanasia) of a seriously injured animal, or to dispatch any animal that poses an immediate threat to any person or other animal, and other dispositions are impractical.
- When, based on the totality of the circumstances, deadly force is objectively reasonable and necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person.
- When, based on the totality of the circumstances, deadly force is objectively reasonable and necessary to effect the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony that threatened or resulted in death or serious bodily injury, and the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

a. AR-15 style rifles

i) Purpose and authorized uses:

(1) The rifle caliber carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased

accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation.

(2) Carbines may be used, based on an articulated need, if the officer reasonably suspects that any of the following conditions exist:

(a) The suspect is armed with a deadly weapon.

(b) The distance necessary to engage an armed suspect is beyond the effective range of the officer's pistol or shotgun.

(c) The suspect is barricaded or protected by materials that may not be penetrated by the officer's pistol or shotgun.

(d) The officer has reasonable cause to believe an armed suspect is wearing body armor.

ii) Legal and procedural rules: See Duty Manual Section L 2638 above at beginning of category 10.

(1) Prior to using a rifle, officers must be certified by POST qualified instructors in the operation of the rifle.

iii) Training:

(1) All department members that operate an AR-15 style rifle are required take a specific 20-hour firearms course and pass a range qualification two times a year.

(2) Officers can obtain an additional 20 hours of training to become a Rifle Specialist. This training includes additional weapons manipulation, training, and tactics.

(3) For Special Operations Units, the AR-15 is the primary weapons system utilized by the teams. Special Operations Officers are required to successfully complete 40-hour MERGE rifle school consisting of extensive firearms training including the AR-15. While assigned to the Special Operations Units, Officers are required to participate in regular rifle training, entry and movement training, and consistent weapons qualifications to maintain proficiency with the AR-15.

(4) Officers qualify bi-annually with this weapon system.

b. Precision rifles

i) Purpose and authorized uses:

(1) Precision rifles provide Special Operations Snipers the ability to engage hostile suspects at great distances and higher accuracy.

ii) Legal and procedural rules: See Duty Manual Section L 2638 above at beginning of category 10.

(1) Precision rifles may be used, based on an articulated need, if the officer reasonably suspects that any of the following conditions exist:

(a) The suspect is armed with a deadly weapon.

(b) The distance necessary to engage an armed suspect is beyond the effective range of the officer's pistol or shotgun.

(c) The suspect is barricaded or protected by materials that may not be penetrated by the officer's pistol or shotgun.

(d) The officer has reasonable cause to believe an armed suspect is wearing body armor.

(e) A hostage situation exists, and the use of a precision rifle is warranted.

iii) Training:

(1) Special Operation Snipers must successfully complete a 40-hour POST approved Basic Sniper School, and regularly train and qualify to maintain proficiency.

(2) Officers qualify bi-annually with this weapon system.

c. MP5

i) Purpose and authorized uses:

(1) The MP-5 submachine gun provides the ability to deliver precision gun fire with a shoulder fired weapons system that is accurate, reliable, and safe. Its compact design allows for ease of maneuverability in close quarter combat scenarios.

ii) Legal and procedural rules: See Duty Manual Section L 2638 above at beginning of category 10.

iii) Training:

(1) Officers must regularly train to maintain proficiency.

(2) Officers qualify bi-annually with this weapon system.

d. Automatic Shotgun

i) Purpose and authorized uses:

- (1) Automatic shotguns provide Special Operations the ability to engage hostile suspects at great distances and higher accuracy.
 - ii) Legal and procedural rules: See Duty Manual Section L 2638 above at beginning of category 10.
 - iii) Training:
 - (1) Officers must regularly train to maintain proficiency.
 - (2) Officers qualify bi-annually with this weapon system.
- e. PAN Disruptors (PAN – Percussion Actuated Non-electric)**
- i) Purpose and authorized uses:
 - (1) Explosive ordinance disposal disrupters are used by hazardous device technicians as bomb mitigation devices. The primary purpose of a disrupter is to remotely open or render safe a suspect item or improvised explosive device. To “remotely open” is to open a suspect item to expose the contents, while “render safe” means to penetrate, cut, or remove the fusing system components in order to disable an explosive. A secondary purpose for a disrupter is to create a means of access in a window, door, trunk, etc.
 - ii) Legal and procedural rules:
 - (1) No unauthorized personnel will be allowed access to the disrupters.
 - (2) Only properly trained personnel will operate the disrupters.
 - (3) At all times while preparing and carrying a loaded disrupter, the Technician will not point the disrupter at anyone and be cognizant of people accidentally walking or standing in front of the disrupter once loaded.
 - (4) Be aware of possible static electricity hazards and take appropriate precautions.
 - (5) A copy of the equipment operating instructions will be maintained with the disrupter.
 - (6) On Wednesday bi-weekly, the disrupter kits in the Bomb Squad transport truck will be checked to make sure all supplies are present, and the disrupters are ready for use.
 - (7) The disrupter(s) will be cleaned after use, or the Bomb Squad Commander will be advised, so that cleaning will be completed as soon as possible.

- (8) When using a disrupter, be aware of the background. A disrupter shot using water or glass beads can still penetrate walls and break glass after opening a suspect device.
- (9) Extra care should be exercised if firing a metal or wood slug as these items can travel a substantial distance after penetrating a suspect package/item. The disrupter can penetrate walls and floors. Clear the area in front of the muzzle of all persons.
- (10) The verbal warning "DISRUPTER" will be made in a loud clear voice in the direction of the disruption procedure just prior to firing.

iii) Training:

- (1) To meet Bomb Squad objectives, personnel will participate in mandatory training prior to using any Bomb Squad equipment. This training will consist of:
 - (a) Successful completion of the following, a forty hour (40) Hazardous Materials Technicians Course compliant with OSHA 29 CFR 1910.120 (q)(6)(iii).
 - (b) Successful completion of the two hundred forty (240) hour HDS Basic Course, provided by the Federal Bureau of Investigation (FBI), Hazardous Devices School in Redstone Arsenal, Huntsville, Alabama. This course provides basic knowledge and certifies the applicant as a Bomb Technician through the FBI Bomb Data Center.
 - (c) Successful completion of the forty (40) hour Re-Certification Course, provided by the FBI, Hazardous Devices School in Redstone Arsenal, Huntsville, Alabama every thirty-six (36) months.
 - (d) Successful completion of a MERGE approved forty (40) hour Special Entry Technicians/Breachers course.

11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

a. 5 Series Launching Cup

i) Purpose and authorized uses:

- (1) The 5 Series Launching cup can be attached to a smoothbore shotgun and launch chemical agent canisters from a safe distance. Chemical Agents are substances designed to irritate the eyes and mucous membranes. When properly used, chemical agents are a valuable de-escalation tool. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance. The use of chemical agents must be justified by a suspect's active resistance and/or a credible threat of physical harm.

ii) Legal and procedural rules:

- (1) Chemical agents can be used by officers in self-defense, on suspects resisting a lawful detention or arrest, for the purpose of dispersing an unlawful assembly in accordance with Duty Manual section L 2305.2 Use of Chemical Agents or Projectile Impact Weapons at First Amendment Activities or Unlawful Civil Disturbances, or to encourage a suspect to exit an enclosed structure, vehicle, or open space.

iii) Training:

- (1) Department personnel shall not use chemical agents (including delivery munitions or devices) without first receiving training from a Department approved Chemical Agents Instructor and/or Less Lethal Impact Munitions instructor.

12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

a. Flashbang / NFD

i) Purpose and authorized uses:

- (1) Noise Flash Devices (NFD’s) are utilized by MERGE during high-risk operations to gain a tactical advantage. When properly deployed they can subdue aggressive suspects and deescalate violent encounters. They are a low explosive device that emit light, heat, pressure, and noise. They have the potential to cause injury or death. These standard operating procedures cover any distraction or pyrotechnic chemical agent device utilized during tactical operations. NFD’s may be used by non-MERGE personnel under the following circumstances:
 - (a) By trained members of the METRO, VCET, and K9 units in conjunction with a MERGE tactical operation or when assisting MERGE on a search warrant.
 - (b) By members of the K9 unit while assisting patrol on a barricade when the deployment is approved by the MERGE Lt., and a single exterior NFD is used as the final action prior to a MERGE callout.
 - (c) By trained personnel under extreme exigent circumstances when necessary for the immediate rescue of an officer or civilian. Exterior use by trained members of CRU in conjunction with an apprehension operation.

ii) Legal and procedural rules:

- (1) Use of NFD’s will be considered a use of force, and their use is governed by the Fourth Amendment. All team members are responsible for ensuring that NFD’s are used properly. Officers are required to look before deployment. Deployment

of NFD's must have an administrative review process prior to deployment absent exigent circumstances.

iii) Training:

- (2) The MERGE unit is responsible for the training, as well as maintaining a list of all certified officers. Certified MERGE officers that have completed a twenty-hour trainer course may instruct. Training requirements for use are 5 hours of classroom instruction and practical.

b. Tear gas / CS

i) Purpose and authorized uses:

- (1) Chemical Agents are substances designed to irritate the eyes and mucous membranes. When properly used, chemical agents are a valuable de-escalation tool. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance. The use of chemical agents must be justified by a suspect's active resistance and/or a credible threat of physical harm. Chemical agents can be used by officers in self-defense, on suspects resisting a lawful detention or arrest, for the purpose of dispersing an unlawful assembly in accordance with Duty Manual section L 2305.2 Use of Chemical Agents or Projectile Impact Weapons at First Amendment Activities or Unlawful Civil Disturbances, or to encourage a suspect to exit an enclosed structure, vehicle, or open space. Only Chemical Agents authorized by the Chief of Police will be used. Currently Authorized Chemical Agents include but are not limited to Oleoresin Capsicum (OC) spray, OC powder, Chlorobenzylidene Malononitrile (CS) gas, CS powder, and CS liquid.

ii) Legal and procedural rules:

- (1) The following chemical agent devices may only be deployed by specialized personnel and units that have been authorized to do so by their respective Bureau Chiefs: Aerosolized Chemical Agent Dispersal Device: Aerosolized dispersal devices containing OC, similar "pepper" irritants, or malodorants may be used with approval from a supervisor or an incident commander. Less Lethal Impact Munitions (LLIM): LLIMs containing OC Powder, similar "pepper" irritants, or malodorants may be used with approval from a supervisor or an incident commander. NOTE ON CROWD CONTROL: LLIMs may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an unlawful assembly in accordance with Duty Manual section L 2305.2 Use of Chemical Agents or Projectile Impact Weapons at First Amendment Activities or Unlawful Civil Disturbances. See also the related Duty Manual sections regulating use of Chemical agents or Projectile Impact Weapons at First Amendment Activities or Unlawful Public Disturbances: Duty Manual Sections L 2305.1, L 2305.3, L 2609, and L 2629.

iii) Training:

- (1) Department personnel shall not use chemical agents (including delivery munitions or devices) without first receiving training from a Department approved Chemical Agents Instructor and/or Less Lethal Impact Munitions instructor.

13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

a. LRAD

i) Purpose and authorized uses:

- (1) The LRAD is a type of loudspeaker device that emits a focused and directed beam of sound.
- (2) The sound levels of this device are controllable and range from a mild public address sound level for providing directions and public safety announcements to the ability to provide a high-pitched tone that can be utilized as a method of crowd control. The LRAD can be used for the following, but are not limited to, Emergency Evacuation orders, Communication during Law Enforcement Operations where direct communications is not possible, or to relay directions to during moments of civil unrest.

ii) Legal and procedural rules:

- (1) The use of the LRAD requires the approval of the designated Commander, when it is determined the LRAD can enhance the department's ability in providing emergency evacuations orders, communicating with a subject during law enforcement operations where direct communication is not possible, or during moments of civil unrest.
- (2) The high-pitched tone may be used for crowd control when deemed necessary by a Command Officer. The use of the high-pitched tone will be documented as a use of force.

iii) Training:

- (1) Sworn Department Members utilizing the LRAD will be trained in the use and deployment of the device by Special Operations Personnel or Department members authorized in its use.

14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.

a. 40mm

i) Purpose and authorized uses:

- (1) 40mm launchers are capable of firing a variety of munitions with a maximum effective range of one hundred twenty (120) feet. 40mm launchers can deliver 40mm munitions in the form of chemical agents, rubber bullets, sponge baton rounds, or combined use rubber/frangible/sponge OC/CS chemical agent rounds. 40mm launchers utilized with less lethal rubber bullets, frangible and sponge baton rounds may be deployed to impact subjects demonstrating assaultive behavior or life-threatening behavior.

ii) Legal and procedural rules:

- (1) Only officers who have completed an approved training course taught by a qualified Department member or a representative of the manufacturer supplying the ammunition are authorized to use this type of equipment. Because projectile impact weapons have the potential to cause serious injury or death, this type of weapon will only be used in the following circumstances:
 - (a) To be used when objectively reasonable to incapacitate a suspects armed with a weapon likely to cause serious bodily injury or death until the suspect can be controlled and safely taken into custody.
 - (b) To be used when objectively reasonable in situations where its use is likely to prevent any person from being seriously injured.
 - (c) Any use of these items will be in compliance with the Duty Manual sections applicable to less lethal projectile impact weapons.

iii) Training:

- (1) Range staff trains officers in the use of the 40mm single launcher. Officers undergo thorough classroom and live fire training in its use. Additionally, officers trained in the use of the 40mm single launcher must pass annual PIW qualifications to maintain proficiency.

b. Stun bag – “bean bag”

i) Purpose and authorized uses:

- (1) This PIW is a standard Remington Model 870, 12-gauge shotgun that has been modified with an orange stock and fore-end. Stun-bag shotguns are capable of firing a 12-gauge beanbag round with a maximum effective range of sixty (60) feet.

ii) Legal and procedural rules:

(1) Only officers who have completed an approved training course taught by a qualified Department member or a representative of the manufacturer supplying the ammunition are authorized to use this type of equipment. Because projectile impact weapons have the potential to cause serious injury or death, this type of weapon will only be used in the following circumstances:

(a) To be used when objectively reasonable to incapacitate a suspects armed with a weapon likely to cause serious bodily injury or death until the suspect can be controlled and safely taken into custody.

(b) To be used when objectively reasonable in situations where its use is likely to prevent any person from being seriously injured.

(c) Any use of these items will be in compliance with the Duty Manual sections applicable to less lethal projectile impact weapons.

iii) Training:

(1) Range staff trains officers in the use of the stun-bag shotgun. Officers undergo thorough classroom and live fire training in its use. Additionally, officers trained in the use of the stun-bag shotgun must pass annual PIW qualifications to maintain proficiency.