



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

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District No. 2  
Vice Chair

Peter Hernandez  
District No. 3  
Chair

Bob Tiffany  
District No. 4

Bea Gonzales  
District No. 5

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**Item Number: 1.4**

**MEETING DATE:** 09/13/2022

**DEPARTMENT:** SHERIFF DEPARTMENT

**AGENDA ITEM PREPARER:** Silvestre Yerena

**DEPT HEAD/DIRECTOR:** Eric Taylor

**SUBJECT:**

**SHERIFF'S OFFICE - E. TAYLOR**

Review Sheriff's Policy Number 708, Military Equipment pursuant to Assembly Bill 481 and provide direction to staff.

SBC FILE NUMBER: 110

**AGENDA SECTION:**

REGULAR AGENDA

**BACKGROUND/SUMMARY:**

On September 30, 2021, Governor Newsom signed a series of eight (8) pieces of policing reform legislation aimed at increasing transparency. One of those pieces, AB 481, effective January 1, 2022, was created to address transparency issues in the funding, acquisition, and use of law enforcement equipment that lawmakers have deemed to be military equipment. This bill requires law enforcement agencies to commence a governing body approval process for the adoption of a military equipment use policy by ordinance to allow the use of previously acquired military equipment. The bill also requires such approval (of the policy by ordinance), before a law enforcement agency may fund, acquire, or use new military equipment. Moreover, the bill requires annual public review and approval actions to continue the use of equipment and requires the County to host an annual community meeting regarding the agency's use of equipment under the bill.

The term "military equipment" as used in the legislation does not necessarily indicate equipment used by the military. Items deemed military equipment include, but are not limited to equipment such as unmanned vehicles, command and control vehicles, armored vehicles, pepper balls, less lethal shotguns, and long-range acoustic devices. These types of equipment, as well as others considered military equipment under AB 481 are commonly used and employed by law enforcement agencies across the country to enhance resident and officer safety.

### **AB 481 Military Equipment**

The following law enforcement equipment is now deemed to be military equipment for purposes adhering to AB 481:

- Unmanned, remotely piloted, powered aerial or ground vehicles
- Mine-resistant ambush-protected vehicles or armored personnel carriers
- Humvee, two and one-half tone 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 and utilize a tracked system instead of wheels for forward motion
- 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
- Firearms .50 caliber or greater. Standard issue shotguns excluded.
- Ammunition .50 caliber or greater. Standard issue shotgun ammunition excluded
- Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Section 30510 and 30515 of the Penal Code. 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 are excluded
- Any firearms or firearm accessory that is designated to launch explosive projectiles
- "Flashbang" grenades and explosive breaching tools, tear gas and pepper balls
- Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD)
- The following projectile launch platforms and their associated munitions: 44mm projectile launchers, bean bag, rubber bullets, and specialty impact munition (SIM) weapons
- Any other equipment as determined by a governing body or a state agency to require additional oversight
- Notwithstanding the above items, military equipment does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

A current list of equipment contained in the Sheriff's Office's inventory is attached to this staff report.

### **AB 481 Legal Requirements:**

To continue to use, seek funding for, or acquire any of the above equipment, the Sheriff's Office must obtain the Board's approval by ordinance adopting the military equipment use policy at a regular meeting held pursuant to Government Code § 7071(a)(1). The bill states the law enforcement agency must commence the governing body approval process by May 1, 2022; however, due to staffing problems and our inexperience, our office is behind on the rollout of this policy and ordinance. We have reached out to our government partners for help and guidance and are now getting into compliance. The Office has not deployed or purchased any of the listed items during this time of getting caught up. Now that the policy has been submitted, your Board has 180 days to approve the continuing use of the equipment, including, by adoption, the policy. If the use of the equipment and proposed policy are not approved within this timeframe, the Sheriff's Office must cease all use of the equipment until such approval is received.

For transparency purposes, the bill requires that the proposed policy be made available on the Sheriff's internet website at least 30 days prior to any public hearing concerning the military equipment use, § 7071(b). The policy is required to be considered "as an agenda item for an open session of a regular meeting and provide for public comment in accordance with" the Brown Act § 7071(c).

The proposed policy must, at a minimum, contain the following: (1) a description of each type of military equipment, quantity sought, its capability, expected lifespan, and product descriptions from manufacturer; (2) the purposes and authorized uses for which the agency proposes to use each type of equipment; (3) the fiscal impact of each type of equipment, including initial cost of obtaining the equipment and the estimated annual cost of maintaining the equipment; (4) the legal and procedural rules that govern each authorized use; (5) the training that must be completed before an employee is allowed to use each type of equipment; (6) the mechanisms in place to ensure compliance with the 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; and (7) the procedures by which members may register complaints or concerns about the use of equipment and how the agency will ensure the complaints or concerns are received and responded to in a timely manner.

In reviewing the proposed policy, your Board shall only approve the policy if you determine the following: (1) the equipment is necessary because there is no reasonable alternative that can achieve the same objectives of deputy and civilian safety; (2) the proposed policy will safeguard the public's welfare, safety, civil rights and civil liberties; (3) the equipment, if being purchased, is reasonably cost effective compared to available alternatives that can achieve the same objective of deputy and civilian safety; and (4) prior military equipment use complied with the military equipment use policy that was in effect at the time, or if it did not, corrective action has been taken to remedy nonconforming uses and ensure future compliance. § 7071(d)(1).

### **Next Steps**

Upon review and approval of the Military Equipment policy, the Sheriff's Office will agendize the introduction of the Ordinance Approving Military Equipment Use Policy No. 708.

Following the approval of the policy, it must be made publicly available on the Sheriff's website for as long as the equipment is available for use, § 7071(d)(2). The Sheriff's Office must also, within a year of approval, and annually thereafter, report each type of equipment approved by the Board, § 7072. The report must include the following information: (1) a summary of how the equipment was used and the purpose of its use; (2) a summary of complaints or concerns received regarding the equipment; (3) the results of internal audits, any information about violations of the Policy, and actions taken in response; (4) the total annual cost for each piece of equipment including the cost of acquisition, personnel, training, transportation, maintenance, storage, upgrade, ongoing costs and information about where the source of funds will be provided from in the calendar year following the submission of the annual report; (5) the quantity of each type of equipment possessed; and (6) whether the agency intends to acquire additional military equipment next year and the quantity sought for each.

Within 30 days of submitting and publicly releasing the annual report, the Sheriff's Office must 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 funding/use of equipment, § 7072(b).

Once adopted, the Board of Supervisors must, at a public meeting, review the ordinance at least annually and vote on whether to renew the ordinance.

### **RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:**

No

### **CONTRACT NEEDED FOR THIS ITEM:**

No

**CONTRACT AND RFP HISTORY:**

N/A

**LAST CONTRACT AMOUNT OR N/A:**

N/A

**STATE IF THIS IS A NEW CONTRACT/ HOW MANY PAST AMENDED CONTRACTS/ OR N/A:**

N/A

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

No

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

Yes

**BUDGETED:**

No

**BUDGET ADJUSTMENT NEEDED:**

N/A

**SOURCE OF FUNDING:**

N/A

**UNFUNDED MANDATE:**

No

**SBC BUDGET LINE ITEM NUMBER:**

N/A

**CURRENT FY COST:**

N/A

**STAFF RECOMMENDATION:**

Approve Sheriff's Policy 708 Military Equipment and direct staff to return with an ordinance adopting said policy.

**BOARD ACTION RESULTS:**

Approved Sheriff's Policy 708 Military Equipment and direct staff to return with an ordinance. (5/0 Vote)

**ATTACHMENTS:**

[Military Equipment Policy #708](#)

[SBCSO AB 481 Inventory](#)

[SBCSO Equipment Justificatoin AB 481](#)

[PowerPoint Presentation](#)