



Legislation Text

File #: 2022-0425, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Sheriff's Office

Staff Name and Phone Number: Connie Newton 565-8884, Lt. Brandon Cutting 565-4788

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

AB 481 Military Equipment Use Policy

Recommended Action:

Adopt a resolution introducing, reading the title of, and waiving the reading of an uncodified ordinance to approve a Military Equipment Use Policy pursuant to AB 481.

Executive Summary:

The Sheriff is requesting the Board take action necessary to comply with new legislation, AB 481, regarding the approval of funding, acquisition, and use of certain equipment by law enforcement agencies. AB 481 requires the Board of Supervisors, as governing body of the County of Sonoma, to approve a Military Equipment Use Policy through the adoption of an ordinance. This Board item requests the Board to adopt a resolution introducing, reading the title of, and waiving the reading of the ordinance approving the Sheriff Office's Military Equipment Use Policy pursuant to AB 481. The ordinance will be presented to the Board for final adoption on May 24, 2022.

Discussion:

Background

Governor Gavin Newsom signed AB 481 into law on September 30, 2021. (Cal. Gov't Code sections 7070-7075). The legislative intent behind AB 481 is to increase the public transparency by which California law enforcement agencies fund, acquire, and/or use military equipment, as defined under AB 481. The Assembly Bill outlines requirements needed for law enforcement agencies to continue using equipment listed in AB 481. Once these requirements are completed, AB 481 requires each law enforcement agency's governing body to adopt a written military equipment use policy by ordinance.

In consultation with County Counsel, the Sheriff's Office has finalized the proposed Military Equipment Policy ("Policy") which was made publicly available on the Sheriff's Office website for 30 days prior to today's meeting. <https://www.sonomasheriff.org/policies-and-training>

The Sheriff's Office is now submitting the proposed Policy and ordinance to the Board for approval and adoption pursuant to Cal. Gov't Code section 7071. The Board shall approve the Policy only if the Board determines that:

- (A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

- (B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

Sheriff's Office Policy

The proposed Policy for the Sheriff's Office meets these conditions and complies with all AB 481 requirements, which include:

- 1) A description of each type of equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions.
- 2) The purposes and authorized uses for which the Sheriff's Office proposes to use each type of equipment.
- 3) The fiscal impact of each type of 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 that must be completed before a Sheriff's Office employee is allowed to use each specific type of equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Policy.
- 6) The mechanisms to ensure compliance with the Policy, including the designation of an equipment coordinator who serves as a liaison to the Board related to Policy requirements and is responsible for the annual community engagement and annual equipment report. Sheriff's Office employees are required to comply with the Policy.
- 7) The procedure by which members of the public may register complaints or concerns or submit questions about the use of the equipment, including a link to access the Sheriff's Office complaint forms.
- 8) Although not a requirement per AB 481, the Sheriff's Office has added a section to the Policy to address mutual aid situations which may require the use of equipment by another law enforcement agency within the County. The Policy restricts the use to any such equipment which has either been approved for use in accordance with this Policy, or by the governing body of the law enforcement agency who is providing the mutual aid.

The Policy also provides direction for the preparation and publishing of the annual equipment report, and the hosting of the annual community engagement meeting.

Sheriff's Office Equipment

AB 481 defines the following categories of "military equipment":

- 1. Unmanned, remotely piloted, powered aerial or ground vehicles (Equipment Category 1)
- 2. Mine-resistant ambush-protected vehicles or armored personnel carriers (Equipment Category 2)
- 3. 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 (Equipment Category 3)
- 4. Tracked armored vehicles that provide ballistic protection to their occupants (Equipment Category 4)

5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units (Equipment Category 5)
6. Weaponized aircraft, vessels, or vehicles of any kind (Equipment Category 6)
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature (Equipment Category 7)
8. Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition (Equipment Category 8)
9. 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 handguns (Equipment Category 9)
10. Any firearm or firearm accessory that is designed to launch explosive projectiles (Equipment Category 10)
11. Noise-flash diversionary devices and explosive breaching tools (Equipment Category 11)
12. Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray (Equipment Category 12)
13. TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (Equipment Category 13)
14. Kinetic energy weapons and munitions (Equipment Category 14)
15. Any other equipment as determined by a governing body or a state agency to require additional oversight (Equipment Category 15)

General equipment, which is not designated as prohibited or controlled by the federal Defense Logistics Agency, is not included in the definition of “military equipment” pursuant to AB 481.

The Sheriff’s Office does not have any prohibited or controlled equipment subject to the federal Defense Logistics Agency. However, the Sheriff’s Office does have general equipment that broadly meets criteria for 7 of the 15 categories and discloses this equipment as part of its Policy to foster transparency and explain its purpose, use, training and safeguards. A list describing the equipment in detail is provided as an attachment to the proposed Policy. It includes a complete description of each item including, number of items, cost, capabilities of the item, which Sheriff’s Office units use the item, authorized use, expected life span of the items, necessary training to use the items, and the legal and procedural rules governing the use of the item. An overview of the type of Sheriff’s Office AB 481 equipment is provided below:

- Category 1 - 3 robots and 11 unmanned aerial vehicles (drones)
- Category 2 & 3 - 1 armored personnel carrier
- Category 5 - 2 command and control vehicles
- Category 7 - 25 breaching tools
- Category 11 - 573 noise-flash diversionary devices
- Category 12 - OC/CS chemical agents: 104 hand deployed or placed, 350 launched, 244 compressed air deployed.
- Category 14 - 104 less lethal launch platforms, 2,565 less lethal munitions, 34 hand deployed rubber ball devices

The Sheriff’s Office equipment listed in the inventory is necessary to provide for the safety of the public and law enforcement personnel. They represent the best available tools and options to use to safely de-escalate civil unrest, barricaded subjects, hostage negotiations, or otherwise high-risk situations within our community. Together with the permitted purpose, authorized use, training and rules outlined in the Policy, these tools help

safeguard the public's welfare, safety, civil right and liberties, and protect the sanctity of human life which stands at the center of the Sheriff's Office mission. Further, the Sheriff's Office is following all pertinent County procedures for procuring equipment in a reasonably cost-efficient manner, including utilizing grant funding whenever available. Lastly, even though the Policy is newly developed pursuant to AB 481, existing policies for training and authorized use of the equipment provide that prior usage of the equipment already complied with the new Policy mandates.

It is therefore recommended that the Board make the required legislative findings pursuant to Cal. Gov't Code section 7071(d), as outlined above and stated in the ordinance, and approve the proposed Policy for adoption on May 24, 2022.

Upon approval of the proposed Policy by the Board, the Sheriff's Office may continue to utilize the equipment. Going forward, the Sheriff's Office will provide annual reporting on the equipment and present the ordinance to your Board for annual review and renewal. The Sheriff's Office will also hold annual community engagement meetings related to the release of the annual equipment report pursuant to cal. Gov't Code section 7072. The annual report addresses any use of AB 481 equipment during the prior year and if applicable, will address any requests for changes to the inventory.

Strategic Plan:

N/A

Prior Board Actions:

N/A

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Adoption of this ordinance will not have an impact on the Sheriff's budget. Funding for AB 481 equipment is included in the Sheriff's annual budget. If the ordinance is not approved, funds used for AB 481 equipment will need to be shifted to alternative equipment and training.

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

1. Resolution introducing, reading the title of and waiving further reading of a proposed ordinance
2. Ordinance to Adopt Military Equipment Use Policy Pursuant to AB 481 (includes Military Equipment Use Policy and Inventory Attachment)
3. Pre-adoption summary

Related Items "On File" with the Clerk of the Board:

N/A