



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: April 9, 2024

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TO: Board of Supervisors

SUBJECT

**SHERIFF – ACCEPT THE SHERIFF'S ANNUAL MILITARY EQUIPMENT REPORT AND REVIEW AND RENEW THE MILITARY EQUIPMENT USE POLICY
ORDINANCE PER SECTION 449 TO ARTICLE XXV OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES (DISTRICTS: ALL)**

OVERVIEW

On September 30, 2021, Governor Newsom signed into law Assembly Bill 481 (AB 481), which is codified in Government Code sections 7070-7075. Assembly Bill 481 is intended to increase transparency, accountability, and oversight surrounding the acquisition and use of military equipment by state and local law enforcement. The San Diego County Sheriff's Department (Sheriff's Department) currently owns equipment that falls under the identified categories of AB 481.

On April 4, 2023 (3), the Board of Supervisors (Board) approved and adopted the ordinance titled "An Ordinance Adding a New Section 449 to Article XXV of the San Diego County Code of Administrative Ordinances for Approval of Sheriff's Military Equipment Use Policy" (Attachment B). To continue utilizing its military equipment, which is necessary to provide public safety and protect residents and businesses of San Diego County, as well as those who visit, the Sheriff's Department has reviewed its military equipment use policy and created an annual Military Equipment Report (Attachment A) pursuant to the requirements of AB 481.

Today's request is for the San Diego County Board of Supervisors to accept the annual Military Equipment Report, and review and renew Ordinance 10777 relating to the military equipment use policy.

RECOMMENDATION(S)

SHERIFF

1. Accept the San Diego County Sheriff's Department AB 481 Annual Military Equipment Report, and determine each type of equipment in the Report has complied with the standards for approval set forth in Government Code section 7071(d).
2. Review and renew the Ordinance:

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AN ORDINANCE ADDING A NEW SECTION 449 TO ARTICLE XXV OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES FOR APPROVAL OF SHERIFF'S MILITARY EQUIPMENT USE POLICY

EQUITY IMPACT STATEMENT

The San Diego County Sheriff's Department (Sheriff's Department) provides law enforcement services that aim to protect everyone's human right to life, liberty, and security of person. It is the policy of the Sheriff's Department to be transparent in the purchase and use of military equipment. Decisions regarding the use, procurement and funding of military equipment takes into consideration the public's welfare, safety, civil rights, and allows for public input. The Sheriff's Department also strives for equitable outcomes in our communities, which means that the law enforcement services afford our communities a chance to lower crime and improve quality of life throughout the entire jurisdiction.

SUSTAINABILITY IMPACT STATEMENT

By enhancing the delivery of law enforcement services, the department is furthering the County's Sustainability Goal of protecting the health and wellbeing of everyone in the region. By maintaining these types of equipment and having it available for the region's first responders through mutual aid agreements, the department is providing a benefit for all San Diego County residents and visitors.

FISCAL IMPACT

There is no direct fiscal impact associated with today's request to review the ordinance governing the San Diego County Sheriff's Department's Military Equipment Use Policy. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

On September 30, 2021, Governor Newsom signed AB 481 into law. AB 481 is intended to increase transparency, accountability, and oversight surrounding the acquisition and use of military equipment by state and local law enforcement. For law enforcement agencies, such as the San Diego County Sheriff's Department (Sheriff's Department), that have existing equipment that falls under the definition of military equipment, AB 481 requires that the agencies have their military equipment use ordinance reviewed annually by the governing body for the continued use of that military equipment. The Sheriff's Department is required to submit an Annual Military Equipment Report to the San Diego County Board of Supervisors (Attachment A) pursuant to Government

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Code 7072. The Annual Military Equipment Report will also be publicly available on the Sheriff's Department's public website for as long as the military equipment is available for use.

On April 4, 2022 (3), the Board of Supervisors (Board) approved and adopted the ordinance titled "An Ordinance Adding a New Section 449 to Article XXV of the San Diego County Code of Administrative Ordinances for Approval of Sheriff's Military Equipment Use Policy" (Attachment B). It is the policy of the Sheriff's Department to ensure adequate public safety services in a transparent manner, including the purchase and use of military equipment. To continue utilizing its military equipment, which is necessary to provide public safety and protect the citizens of San Diego County, the Sheriff's Department has reviewed its military equipment use policy and created an annual Military Equipment Report pursuant to the requirements of AB 481.

The Sheriff's Department currently owns equipment that fall under the identified categories of AB 481. Though named military equipment, several categories include equipment for responding to critical events and assist in de-escalation. The equipment increases the safety of law enforcement personnel, allows them access into difficult terrain, provides engagement without physical contact, and enables them to protect members of the public and other first responders such as firefighters and emergency medical personnel.

AB 481 added Government Code 7070 defining the following 15 categories of items as military equipment:

- Category 1: Unmanned, remotely piloted, powered aerial or ground vehicles
- Category 2: Mine-resistant ambush-protected vehicles or armored personnel carriers
- Category 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
- Category 4: Tracked armored vehicles that provide ballistic protection to their occupants
- Category 5: Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units
- Category 6: Weaponized aircraft, vessels, or vehicles of any kind
- Category 7: Battering rams, slugs, and breaching apparatuses that are explosive in nature
- Category 8: Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition
- Category 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
- Category 10: Any firearm or firearm accessory that is designed to launch explosive projectiles
- Category 11: Noise-flash diversionary devices and explosive breaching tools
- Category 12: Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray
- Category 13: TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices
- Category 14: Kinetic energy weapons and munitions

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Category 15: Any other equipment as determined by a governing body or a state agency to require additional oversight

From the categories listed above, the Sheriff's Department is currently in possession of equipment under categories 1-3 and 7-13. All items currently in possession by the Sheriff's Department have been approved during the associated budgetary periods commensurate with the items purchased. The Annual Military Equipment Report reflects the following additions:

- Section 1
 - DJI Air 2S (x1)
 - Autel Robotics Max 4T (x7)
- Section 1.4 Bomb Squad Robots
 - iCore Caliber Flex (x2)
- Section 2.5 Bear Cat G3
 - Bear Cat G3 (x1)
- Section 18 – Future Military Equipment Purchases
 - Quadruped Robot

Pursuant to Government Code Section 7071(e), in reviewing the Sheriff's Department's Annual Military Equipment Report and the ordinance (Attachment B), the Board must determine whether each type of equipment listed in the Report has complied with the standards for approval set forth in Section 7071(d), which are also codified in the ordinance. These standards are: (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 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; and (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 use and ensure future compliance. If the Board finds that any type of equipment has not complied, they must either disapprove renewal of that type of military equipment or require modifications to the military use policy to resolve the lack of compliance.

Once reviewed and accepted, and for as long as the military equipment is available for use, the updated military equipment use policy and Annual Military Equipment Report will be made available on the Sheriff's Department's public website and will be followed by a community engagement meeting on April 25, 2024.

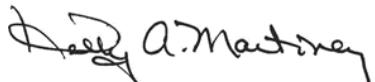
Today's request is for the San Diego County Board of Supervisors to accept the annual Military Equipment Report, determine that each type of equipment has complied with the standards for approval set forth in Government Code section 7071(d), and review and renew the ordinance relating to the military equipment use policy in compliance with AB 481.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Justice Strategic Initiative of the County of San Diego's 2024 – 2029 Strategic Plan by ensuring transparency in the use and procurement of military equipment for the benefit of providing law enforcement services to the residents of San Diego County.

Respectfully submitted,



KELLY A. MARTINEZ
Sheriff

ATTACHMENT(S)

Attachment A – SAN DIEGO COUNTY SHERIFF'S DEPARTMENT – ASSEMBLY BILL 481 - ANNUAL MILITARY EQUIPMENT REPORT 2023

Attachment B - AN ORDINANCE ADDING A NEW SECTION 449 TO ARTICLE XXV OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES FOR APPROVAL OF SHERIFF'S MILITARY EQUIPMENT USE POLICY