



# COUNTY OF SAN DIEGO

## AGENDA ITEM

### BOARD OF SUPERVISORS

NORA VARGAS  
First District

JOEL ANDERSON  
Second District

TERRA LAWSON-REMER  
Third District

NATHAN FLETCHER  
Fourth District

JIM DESMOND  
Fifth District

**DATE:** April 5, 2022 and April 26, 2022

**09**

**TO:** Board of Supervisors

### **SUBJECT**

#### **NOTICED PUBLIC HEARING:**

**SHERIFF – 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 (DISTRICTS: ALL)**

#### **OVERVIEW**

On September 30, 2021, Governor Newsom signed into law Assembly Bill 481 (AB 481). Assembly Bill 481 is intended to increase transparency, accountability, and oversight surrounding the acquisition and use by state and local law enforcement agencies of equipment the state has identified as “military equipment.” For law enforcement agencies such as the San Diego County Sheriff’s Department that currently utilize equipment identified in the new law, AB 481 requires approval by the governing body for the continued use of the specific equipment no later than May 1, 2022.

Governing body approval under AB 481 must take the form of an ordinance adopting a publicly released, written military equipment use policy, which must address a number of specific topics, including the type, quantity, capabilities, purposes, and authorized uses of each type of equipment, the fiscal impact of their acquisition and use, the legal and procedural rules that govern their use, the training required by any officer allowed to use them, the mechanisms in place to ensure policy compliance, and the procedures by which the public may register complaints.

The department currently owns equipment that falls under the identified types as defined in AB 481. The listed equipment is used to respond to critical events and assist in de-escalation. The equipment increases the safety of law enforcement personnel and citizens. It allows access into difficult terrain and provides a variety of options for a safe and timely resolution of critical incidents county wide.

Today's request is for the Board of Supervisors to approve an ordinance relating to the military equipment use policy as required by California Assembly Bill 481. Note that per AB 481, the Sheriff’s military use policy has been posted on the Sheriff’s public website for 30 days.

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**RECOMMENDATION(S)**

**SHERIFF**

1. On April 5, 2022: Approve the introduction of the Ordinance (first reading), read title, and waive further reading of the Ordinance:  
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
2. Receive the San Diego County Sheriff's Department presentation related to Assembly Bill 481

If, on April 5, 2022, the County of San Diego Board of Supervisors takes action as recommended, then on April 26, 2022, consider and adopt (second reading):

1. 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**

Public safety encompasses more than just the enforcement of the laws. The Sheriff's Department provides law enforcement services that aim to protect human rights, liberty, and security of person. It is the policy of the San Diego Sheriff's Department to be transparent in the purchase and use of equipment the state has defined as military equipment. Decisions regarding the use, procurement and funding of this equipment will take into consideration the public's welfare, safety, civil rights, and allow for public input. The 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. Ensuring that everyone is provided public safety is essential for thriving communities. The department is committed to keeping our communities safe and as crime free as possible.

**FISCAL IMPACT**

There is no fiscal impact associated with today's requests to receive a presentation related to Assembly Bill 481 and consider and adopt an ordinance approving 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

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**BACKGROUND**

On September 30, 2021, Governor Newsom signed into law Assembly Bill 481 (AB 481). Assembly Bill 481 is intended to increase transparency, accountability, and oversight surrounding the acquisition and use of specified equipment by state and local law enforcement agencies. Requirements of AB 481 include that each law enforcement agency's governing body shall commence a process to adopt a written military equipment use policy by ordinance in a public forum by April 30, 2022, to continue the use of its previously acquired military equipment effective May 1, 2022.

Assembly Bill 481 added Government Code 7070 defining the following 15 types of items as military equipment:

- Type 1: Unmanned, remotely piloted, powered aerial or ground vehicles
- Type 2: Mine-resistant ambush-protected vehicles or armored personnel carriers
- Type 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
- Type 4: Tracked armored vehicles that provide ballistic protection to their occupants
- Type 5: Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units
- Type 6: Weaponized aircraft, vessels, or vehicles of any kind
- Type 7: Battering rams, slugs, and breaching apparatuses that are explosive in nature
- Type 8: Firearms of .50 caliber or greater, excluding standard-issue shotguns
- Type 9: Ammunition of .50 caliber or greater, excluding standard-issue shotgun ammunition
- Type 10: 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
- Type 11: Any firearm or firearm accessory that is designed to launch explosive projectiles
- Type 12: Flash bang grenades and explosive breaching tools, tear gas and pepper balls excluding standard service issued handheld pepper spray.
- Type 13: TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices
- Type 14: Kinetic energy weapons and munitions
- Type 15: Any other equipment as determined by a governing body or a state agency to require additional oversight

The San Diego County Sheriff's Department is currently in possession of equipment under types 1-3, 5 and 7-14 from the above list. All items currently in possession by the Sheriff's Department were approved by the Sheriff during the associated budgetary periods commensurate with the items purchased.

San Diego County Sheriff's Department has prepared a military equipment use policy that must be adopted by the Board of Supervisors by an ordinance. In approving the policy, the Board must find that 1) the military equipment is necessary because there is no reasonable alternative

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that can achieve the same objective of officer and civilian safety; and 2) the proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

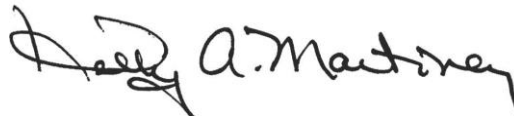
The San Diego Sheriff's Department works to ensure the provision of adequate public safety services in a transparent manner, including the purchase and use of equipment identified in AB 481. Pursuant to state law, the Department has prepared a proposed military equipment use policy for adoption by the Board of Supervisors. The policy includes information for each piece of equipment listed in state law, including the description, quantity, capability, life span, purpose, authorized usage, cost, required training, and authority for use. The policy also identifies where the equipment is stored or used and sets forth mechanisms to ensure compliance with the policy, and for members of the public to register complaints or concerns about each type of military equipment.

The policy will remain publicly available on the Sheriff's Department's internet website for as long as the military equipment is available for use. Within one year of approval of the policy, and annually thereafter, the Sheriff's Department will submit a military equipment report to the Board of Supervisors that will include a summary of how the specified equipment was used and the purpose of its use, as well as any complaints or concerns received concerning the equipment, and other items required pursuant to Government Code 7072. That report will also be publicly available on the Sheriff's Department's internet website for as long as the military equipment is available for use. The Sheriff's Department will host future community events which will allow for the public to voice concerns with members of the Sheriff's Department regarding the annual military equipment report. Information surrounding these community events will be made public via the Sheriff's Department website.

**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 2022-2027 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  
Acting Sheriff

**ATTACHMENT(S)**

ATTACHMENT A - SAN DIEGO COUNTY SHERIFF'S DEPARTMENT ASSEMBLY BILL 481 - MILITARY EQUIPMENT USE POLICY

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ATTACHMENT B – SAN DIEGO COUNTY SHERIFF'S DEPARTMENT ASSEMBLY BILL 481 - MILITARY EQUIPMENT USE POLICY ADDENDUM

ATTACHMENT C – 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 (CLEAN COPY)

ATTACHMENT D – 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 (INFORMATIONAL COPY)

ATTACHMENT E – Summary of Ordinance