



County of San Mateo

Inter-Departmental Correspondence

Department: SHERIFF

File #: 22-341

Board Meeting Date: 5/3/2022

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Carlos G. Bolanos, Sheriff

Subject: Military Equipment Use Policy for the San Mateo County Sheriff's Office

RECOMMENDATION:

Adopt an uncodified ordinance approving a Military Equipment Use Policy for the San Mateo County Sheriff's Office, previously introduced on April 19, 2022, and waive the reading of the ordinance in its entirety.

BACKGROUND:

Assembly Bill 481 was enacted last year, and it requires that law enforcement agencies bring to their respective local agency governing boards "Military Equipment Use Polic[ies]" in the form of an Ordinance.

There is some indication that AB 481 was intended to apply only to equipment actually used by the military. The Sheriff's Office has no such equipment. However, many have interpreted the law more broadly to include certain general types of equipment that fall within the categories listed in AB 481 but that are not actually purchased by the military from military sources, and in the interest of transparency, the Sheriff's Office has created a policy and is bringing it to the Board for approval.

DISCUSSION:

The Sheriff's Office has created a draft policy compliant with AB 481, and which will ultimately be found within the San Mateo County Sheriff's Office Policy Manual as Policy 705-Military Equipment Use Policy ("Policy 705"). It has been published on the Sheriff's Office's website since March 17, 2022.

The policy reflects that Sheriff's Office owns and uses (on occasion) the following items that are listed in AB 481:

(1) Unmanned, remotely piloted, powered aerial and ground vehicles. This equipment takes the form of bomb disposal robots and unmanned aircraft systems (UASs) or "drones".

- (2) A wheeled vehicle, commonly referred to as a "BearCat" that has an entry apparatus attached.
- (3) A Command vehicle that was built to facilitate the operational control and direction of public safety units.
- (4) Firearms and ammunition of .50 caliber or greater.
- (5) "Diversionary flashbang" grenades, "stingball" grenades "tear gas," "tear gas launcher" and "pepper balls."
- (6) 40mm projectile launchers, "bean bags," rubber bullet, specialty impact munition (SIM) weapons, and their associated munitions.

In adopting the Ordinance, you are asked to find the following:

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

Without the bomb squad disposal robots or the BearCat, the bomb squad and the SWAT Team would be forced to have deputies put themselves at greater risk of death in evaluating and diffusing potential explosives and responding to hostage situations involving armed individuals.

Without the drones, the Sheriff's Office would be much less effective at locating and rescuing civilians in remote locations. Drones expand search capabilities and save valuable time and resources during rescue operations. Drones operated by the Sheriff's Office are not equipped with any type of weapons.

Without a mobile command vehicle, the coordination of public safety units at large scale events would be significantly hampered. Large scale events often involve personnel from a variety of agencies and disciplines. The mobile command vehicle serves as a command post that allows for a unity of command.

The pepper ball launchers, tear gas munitions and associated launchers, bean bag launcher, bean bag munitions, less lethal launchers, less lethal munitions, diversionary flashbangs, and CTS stingballs, deputies are all considered "less lethal" tools designed to be used in situations where lethal force might be avoided (and after making all reasonable efforts to deescalate a situation). Without these tools, Sheriff's Office personnel may be required to use a more lethal tool to end a dangerous confrontation. It is of note that, by policy, force or control devices are to be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riot. Further, pepper ball projectiles should not be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public. And, only an on-scene sergeant or an incident commander may authorize the delivery and use of tear gas. Finally, it is important that over the last three years, Sheriff's Office personnel have responded to a number of mutual aid requests for large scale cases of civil unrest but have not used any of the force options described in this policy.

Without the agency's .50 caliber rifles and associated ammunition, used only by the SWAT Team, our

deputies would be at a disadvantage when confronting heavily armed, armored and/or concealed suspects. These firearms protect both law enforcement and the public with their high degree of accuracy and ability to quickly stop a violent assault or resolve an event where someone has been taken hostage. It is of note that firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, are excluded from this policy because they are the agency's standard issued patrol rifles.

(B) That the proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

The proposed military use policy makes reference to other internal Sheriff's Office policies that address the use of the specified equipment. Staff members must be trained on the equipment before using it. The Sheriff's Office use of force policy requires staff members to exercise any use of force judiciously and with respect for human rights, dignity and life. A deputy may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Furthermore, it is the policy of the Sheriff's Office not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights. Further, all use of force incidents are documented and reviewed to ensure compliance with agency policy and the law. Any use of a UAS, by policy, must be in strict accordance with constitutional and privacy rights and FAA regulations.

(C) That 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.

While there is no intent to purchase additional equipment at this time, much of the equipment we have purchased is highly specialized and designed to perform a specific goal as described above and there is therefore no more cost-effective alternative.

In the past, some vendors have been sole source. The Sheriff Office can also on occasion purchase equipment directly from the manufacturer and/or at a government contract rate. When there are alternatives available, staff members will conduct testing on similar products from different manufacturers to determine the most cost-effective product, while considering performance and durability. And again, the equipment outlined in this policy is not actually equipment purchased from the military.

(D) That 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.

Prior to the creation of this policy, use of military equipment by the San Mateo County Sheriff's Office was regulated by individual internal policies. Any use of the equipment would have been investigated and, in the event any use was deemed outside of policy, corrective action would have been taken through retraining and/or discipline. The type of military equipment owned and maintained by the San Mateo County Sheriff's Office has been consistent for the last decade.

The County Attorney has reviewed and approved the ordinance as to form.

FISCAL IMPACT:

There is no fiscal impact associated with adoption of the ordinance.