



County of San Mateo

Inter-Departmental Correspondence

Department: SHERIFF

File #: 23-529

Board Meeting Date: 6/13/2023

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Christina Corpus, Sheriff

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

RECOMMENDATION:

Adopt a resolution renewing the County's ordinance that adopted and approved a Military Equipment Use Policy for the San Mateo County Sheriff's Office and making findings based on the San Mateo County Sheriff's Office's annual military equipment report for the period of May 1, 2022 through April 30, 2023.

BACKGROUND:

California Assembly Bill 481 amended the Government Code to regulate the funding, acquisition, and use of military equipment by law enforcement agencies. On April 19, 2022, this Board adopted an uncodified ordinance approving a Military Equipment Use Policy for the San Mateo County Sheriff's Office.

Pursuant to Government Code section 7072, a law enforcement agency that receives approval for a military equipment use policy pursuant to Government Code section 7071 "shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use."

This Board is required to annually (1) renew the ordinance and (2) determine, based on the annual military equipment report submitted by the San Mateo County Sheriff's Office, whether each type of military equipment identified in that report has complied with the standards for approval set forth in Assembly Bill 481 and codified at Government Code section 7071(d).

DISCUSSION:

On April 19, 2022, the Board of Supervisors adopted Ordinance 4865, which approved the Military Equipment Use Policy for the San Mateo County Sheriff's Office. This policy is compliant with AB 481 and is incorporated into the San Mateo County Sheriff's Office Policy Manual as Policy 705-Military

Equipment Use Policy ("Policy 705"). The policy has been published on the Sheriff's Office's website since March 17, 2022.

The policy reflects that the Sheriff's Office owns and uses (on occasion) the following items of equipment 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 mobile 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) "Diversionsary 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 resolution accompanying this item, you are asked to make the following findings:

(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, diversionsary flashbangs, and CTS stingballs 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. Also, only an on-scene sergeant or an incident commander may authorize the use of tear gas. Finally, it is important to note 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 and potentially heightened risk 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 respond to a hostage situation.

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

The Sheriff's Military Equipment Use Policy and the use of military equipment pursuant to this policy, along with other office policies, safeguard and promote the public's safety, civil rights and civil liberties.

The Military Equipment Use Policy references 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. Deputies may only use levels 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 drone, 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.

Any equipment that the Sheriff's Office will purchase 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.

The San Mateo County Sheriff's Office's use of military equipment from May 1, 2022 to April 30, 2023 has been in compliance with Policy 705, which has been published on the Sheriff's Office's website since March 17, 2022.

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

FISCAL IMPACT:

Current assets have been purchased through the Sheriff's Office budget or grant funding. Ongoing maintenance, training, and storage is paid through the Sheriff's Office budget. The only equipment expected to be added in the coming year (May 1, 2023 to May 1, 2024) are new Unmanned Aerial Systems aircrafts for replacement of aging fleet and the addition of smaller, indoor flight-capable aircrafts. The total cost is approximately \$53,000 and these funds will come from the Sheriff's Office budget.