

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

May 7, 2024

FROM

**SHANNON D. DICUS, Sheriff/Coroner/Public Administrator
TRACY REECE, Chief Probation Officer, Probation Department
JASON ANDERSON, District Attorney**

SUBJECT

Law Enforcement Agencies' Military Equipment Funding, Acquisition, and Use Policy 2024 Report — Per California Assembly Bill 481

RECOMMENDATION(S)

1. Conduct a public hearing relating to the continued funding, acquisition, and use of military equipment policies and reporting by the District Attorney's Office, Probation Department, and Sheriff/Coroner/Public Administrator, as required by Assembly Bill 481.
 2. Receive 2024 Annual Military Equipment Report covering calendar year 2023 from the District Attorney's Office, pursuant to Assembly Bill 481 and Government Code section 7070 et seq.
 3. Receive 2024 Annual Military Equipment Report covering calendar year 2023 from the Probation Department, pursuant to Assembly Bill 481 and Government Code section 7070 et seq.
 4. Receive 2024 Annual Military Equipment Report covering calendar year 2023 from the Sheriff/Coroner/Public Administrator, pursuant to Assembly Bill 481 and Government Code section 7070 et seq.,
 5. Find that each type of military equipment identified in the above agencies' 2024 annual military equipment reports complies with Government Code section 7071, subdivision (d).
 6. Renew Ordinance Nos. 4428, 4429, and 4430 relating to the above agencies' Military Equipment Use Policies, pursuant to Government Code section 7071, subsection (e)(1).
- (Presenter: Ernie Perez, Deputy Chief, 387-3760)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health, and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The estimated one-time costs are minimal, including the cost for publication in local newspapers and interpreter fees for the public hearing, which will be funded within the Sheriff/Coroner/Public Administrator's (Sheriff) existing 2023-24 budget allocation.

BACKGROUND INFORMATION

On September 30, 2021, Governor Gavin Newsom signed Assembly Bill 481 (AB 481) into law, which became effective January 1, 2022. AB 481's goal is to provide legally enforceable safeguards to protect the public's welfare, safety, civil rights, and civil liberties, and to give

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mechanisms to discuss how military equipment is funded, acquired, and used by state and local law enforcement agencies.

AB 481 added Chapter 12.8, commencing with section 7070, to Division 7 of Title 1 of the Government Code, to define certain law enforcement equipment as "military equipment," and requires oversight from a governing body to purchase and use such equipment. (Gov. Code, § 7070, subd. (a).)

AB 481 requires law enforcement agencies to follow specified procedures prior to acquiring and using military equipment defined in Government Code section 7070, subdivision (c), in order to ensure the agencies' compliance with certain standards, including obtaining prior approval from their local governing bodies before the agencies can use, fund, and acquire any military equipment. Thus, AB 481 thus calls for Board of Supervisors' (Board) oversight of the San Bernardino County District Attorney's Office (DA), Sheriff, and Probation Department's (Probation) use of military equipment.

On April 12, 2022 (Item No. 65), the Board conducted a public hearing on and approved introduction of proposed ordinances related to policies on the funding, acquisition, and use of military equipment by the DA, Sheriff, and Probation. The Board also received the agencies' Annual Military Equipment Reports and proposed Military Equipment Use Policies. Finally, the Board scheduled final adoption of the proposed ordinances for April 26, 2022.

On April 26, 2022 (Item No. 74), the Board considered and adopted Ordinance Nos. 4428, 4429, and 4430 for the DA, Probation, and the Sheriff, respectively, based on the required military equipment use policy and initial military equipment inventory report that each agency submitted on April 12, 2022. The policies and reports included information on, among other matters, the agencies' inventory of military equipment, the equipment's fiscal impact, the legal and procedural rules that governed each authorized use of equipment, the training involved in the agencies' use of the equipment, and the mechanisms in place to ensure agency compliance with the military equipment use policies.

Under Government Code section 7071, subdivision (d), the Board approved a military equipment use policy for each of the agencies after determining all of the following:

- 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.
- d. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior use did not comply with the accompanying military equipment use policy, corrective action was taken to remedy nonconforming uses and ensure future compliance.

With Ordinance Nos. 4428, 4429, and 4430 adopted, AB 481 requires the Board to annually review those Ordinances and vote at a regular meeting on whether or not the Ordinances should be renewed. At the annual review, the Board shall determine whether each type of military equipment identified in the agencies' respective most recent calendar year's annual

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military equipment report complied with the military equipment use approval standards set out in Government Code section 7071, subdivision (d).

As required by Government Code section 7072, subdivision (a), the DA, Probation, and the Sheriff are submitting their Annual Military Equipment Reports for the 2023 calendar year as the equipment will continue to be available for future use. The reports were released to the public on March 29 and 30, 2024, by uploading them to the agencies' public websites, prior to the agencies holding a community engagement forum on the reports, as required by Government Code section 7072, subdivision (b). The agencies scheduled the meeting for May 7, 2024, during the regularly scheduled Board meeting, to provide the general public with the greatest ability to discuss and ask questions regarding the reports and the agencies' funding, acquisition, or use of military equipment. Following this community forum, the Board will be required to:

- a. Evaluate and vote on whether it should renew Ordinance Nos. 4428, 4429, and 4430; and
- b. Determine whether each type of military equipment identified in the agencies' 2023 annual military equipment reports complies with Government Code section 7071, subdivision (d), as described above, and, if not, decide whether the Board shall either disapprove the renewal of the authorization for that type of military equipment or require modifications to a military equipment use policy in a manner resolving the lack of compliance.

Approval of this item will allow the DA, Sheriff, and Probation to comply with the requirements of AB 481, and for the continued use of military equipment.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Grace B. Parsons, Deputy County Counsel, and Maria Insixiengmay, Deputy County Counsel, 387-5455) on April 10, 2024; Finance (Erika Rodarte, Administrative Analyst, 387-4019) on April 14, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on April 22, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

Hearing Opened
Public Comment: None
Hearing Closed

APPROVED

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Col. Paul Cook (Ret.)

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 7, 2024



cc: File - Sheriff w/ attachments
JLL 05/9/2024