



# San Bernardino County

## Legislation Text

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**File #: 7954, Agenda Item #: 69**

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

**May 9, 2023**

**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 2023 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 2023 Annual Military Equipment Report, pursuant to Assembly Bill 481 and Government Code section 7070 et seq., from the District Attorney's Office.
  3. Receive 2023 Annual Military Equipment Report, pursuant to Assembly Bill 481 and Government Code section 7070 et seq., from the Probation Department.
  4. Receive 2023 Annual Military Equipment Report, pursuant to Assembly Bill 481 and Government Code section 7070 et seq., from the Sheriff/Coroner/Public Administrator.
  5. Find that each type of military equipment identified in the agencies' 2023 annual military equipment reports complies with Government Code section 7071, subdivision (d).
  6. Renew Ordinance Nos. 4428, 4429, and 4430 relating to San Bernardino County's Military Equipment Use Policy, 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 additional 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 2022-23 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 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. AB 481 thus calls for the Board of Supervisors (Board) oversight of the San Bernardino County District Attorney's Office (DA), the Sheriff, and the 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 for the funding, acquisition, and use of military equipment policies 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 uses did not comply with the accompanying military equipment use policy, corrective action has been 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 military equipment reports 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 to the Board their annual military equipment reports for the 2022 calendar year as the equipment will continue to be available for use. The reports were released on March 30 and 31, 2023, 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 9, 2023, 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 comply with Government Code section 7071, subdivision (d), as described above, and, if not, decide whether the Board shall either disapprove a 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 Parsons, Deputy County Counsel, Katherine Hardy, Deputy County Counsel, and Jamie Ryan, Supervising Deputy County Counsel, 387-5455) on April 21, 2023; Finance (Erika Rodarte, Administrative Analyst, 387-4019) on April 24, 2023; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on April 24, 2023.