



Legislation Text

File #: 22-0758, **Version:** 2

Sheriff's Office recommending the Board Approve the **Final Passage** (Second Reading) of Ordinance **5160** - establishing a Military Equipment Use Policy. (Cont. 5/17/2022, Item 26)

FUNDING: N/A

DISCUSSION / BACKGROUND

On May 17, 2022, the Board heard the Introduction (First Reading) of Ordinance 5160 and Continued the matter to May 24, 2022 for Final Passage (Second Reading).

Issue Detail: Assembly Bill 481 (AB 481 or the Bill), codified at Government Code sections 7070 through 7075 requires a law enforcement agency (LEA) to obtain approval from the applicable governing body, via adoption of a "military equipment" use policy (the Policy) by ordinance (the Ordinance), prior to the LEA funding, acquiring, or using military equipment. The El Dorado County Sheriff's Office (EDSO) seeks Board of Supervisor adoption of the attached Military Equipment Use Policy, in order to allow EDSO to continue to use the vital equipment specified therein, as well as acquire new equipment as identified in the future.

Items deemed to be "military equipment" by AB 481 are used as a component of overall best practices for LEAs throughout the country. These tools have been tested in the field and are used by LEAs to enhance citizen safety and officer safety. Loss of these items would jeopardize the welfare of citizens of El Dorado County and peace deputies within the EDSO.

The term "military equipment", as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be "military equipment" include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long range acoustic devices, and flashbangs.

EDSO is committed to using the most up to date tools and equipment to safeguard the citizens of El Dorado County. Many of the items deemed to be "military equipment" by AB 481 are in fact employed by EDSO, and LEAs across the country, in order to specifically reduce risk to community members. These items provide deputies with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items at issue in this report, and accompanying Military Equipment Use Policy, also provide the El Dorado County Sheriff's Office deputies with vital tools that facilitate compliance with its stringent use of force policy.

Other items deemed to be "military equipment" via AB 481 include foundational equipment such as

rifles. These rifles allow peace deputies to address lethal threats from a greater distance and with greater precision.

Rationale for Recommendation: There is significant interest in ensuring that law enforcement continues to have access to equipment that will provide deputies as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools identified below are vital to EDSO's mission and will continue to be strictly regulated through internal processes and oversight.

The proposed ordinance seeks to approve the EDSO's Policy Section 709, which constitutes EDSO's Military Equipment Use Policy outlines each item identified in Government Code section 7070 that is currently owned by the county. The policy also includes the current use and cost of each item. These particular items, and their stated uses, have been in place prior to the implementation of AB 481. Future acquisitions of any item deemed to be "military equipment" will require a further public meeting, and board approval.

The proposed policy 709 safeguards the public's welfare, safety, civil rights and civil liberties. The policy ensures that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, policy 709 requires EDSO to conduct an annual audit of military equipment. Violations of policy will be corrected when discovered. Members of the public are provided direction per the policy on how to register complaints for violations. All items which result in a use of force will be investigated, as is already required by existing EDSO policy.

There are no reasonable alternatives to the items listed below. The El Dorado County Sheriff's Office has not discovered alternative items that can achieve the same objectives of deputy and civilian safety. Each item's necessity is further described below:

Unmanned remotely piloted powered aerial vehicle: Unmanned aerial systems (UAS) are necessary as they provide visibility to high-risk locations. Without the use of a UAS, deputies would have to deploy to high-risk locations which would increase the risk to the deputies and members of the public. The UAS system is designed to enter small spaces, such as enclosed structures, as well as to provide overhead observations of wooded areas and other structures located in often times crowded spaces. There are no known alternatives which could be used to safely access these locations.

Unmanned remotely controlled ground vehicle: Unmanned ground robots are used for reconnaissance during critical incidents to assist in providing visibility in areas where it would be unsafe to send a deputy. This system can also be used to defuse or move potentially hazardous items. Not having access to this item would require the use of deputies to engage in high-risk tasks. There is no known alternative to this system.

Armored personnel carriers, Humvees, wheeled vehicles that have a breaching or entry apparatus: Armored vehicles are used to provide ballistic protection to deputies during rescue, critical incidents,

and other hazardous situations. These vehicles allow deputies closer access to high-risk situations while substantially reducing the physical risk to the deputies and citizens. These vehicles are built on commercial vehicle chassis and are primarily a reinforcement of civilian commercial vehicles. As such, there are no reasonable alternatives to providing the same level of ballistic protection.

Command and control vehicles: The mobile incident command vehicles are unarmored vehicles equivalent to a commercial recreational vehicle. They are equipped with specific communication and audio-visual devices to assist in command and control of a critical incident. These vehicles allow for mobile incident command and use of the Incident Command Systems. They provide for mobility, sheltering, and logistical support, and power. There are no known alternatives for the mobile command vehicles, which provide the same amount of mobility and support at one location in a quick deploying package.

Breaching apparatuses, battering rams, slugs: Battering rams and breaching apparatus are used to defeat locked, barricaded, or fortified locations allowing deputies to conduct rescues or high risk forceable entries. This includes but is not limited to rescuing hostages. These items allow deputies to quickly enter a structure when time is of the essence. This would include but not limited to an active shooter or kidnapping situation. In such situations time is of the essence and it would not be feasible to wait for other delayed access to the structure. There are alternatives which are used for low risk and/or non-fortified situations. This includes handheld battering rams. However, this alternative does not afford the same level of protection or speed that such equipment provides when necessary. As such there is no reasonable alternative to these items when they are used and required.

Specialized firearms and ammunition including assault weapons: Patrol rifles, Special Weapons and Tactics (SWAT) rifles, and sniper rifles enable deputies when in compliance with the EDSO's Use of Force Policy, to address medium to long distance threats, or those threats who are heavily armed, armored or both. Further, in both short and long-distance deployments, they allow deputies precision shot placement minimizing the risk to deputies and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance or precision.

Flashbangs: Flashbangs are used as a distraction device in order to disorient or divert the suspect's attention away from deputies. This can allow deputies to gain safer access to a high-risk situation, giving extra time to assess and analyze existing threats. This can prevent injury to deputies and citizens. These devices can often lead to a safer resolution and allow deputies to take a citizen into custody without force. There is no known alternative to a flashbang when it is necessary.

Explosive breaching tools: Explosive breaching tools are used by the Explosive Ordinance Detail in order to enter fortified or hardened structures to allow for rescue or other high-risk police entries. They are used when there are no other reasonable alternatives to rapidly breach a location. They are only used when time is of the essence in order to preserve life. Without these items, deputies may not be able gain access to a location in a safe and timely manner to engage in necessary law

enforcement operations. There is no known reasonable alternative to these items when they are necessary as stated.

Tear gas and pepper ball: Tear gas and pepper ball are less lethal methods used to address violent or riotous crowds when there is a risk of physical safety. They are also used to safely extract a suspect from a fixed location or safely detain a suspect who poses a risk of violence to deputies. Tear gas allows peace deputies to deploy a less lethal chemical agent into a structure where other weapons would not be capable of doing so. These devices are also deployed in a correctional setting when dealing with a violent inmate or group of inmates engaged in violent or riotous behavior. These weapons are less lethal and afford peace deputies an added option to avoid lethal force encounters. When these items are reasonable and necessary for use, there is no other alternative.

Long Range Acoustic Device (LRAD): The LRAD is used in situations necessary to address the public. It can also be used as a safe deterrent against hostile crowds or individuals. This device is only used when standard sound amplification equipment is not sufficient to provide adequate range or capability needed. There is no reasonable alternative that would suffice in situations where the LRAD is necessary. EDSO does not currently have an LRAD device.

40mm projectile launchers and bean bag shotguns: The 40mm launcher affords the ability to use less lethal chemical agents and impact munitions. This allows deputies to address a threat from a greater distance and provides an alternative option for deadly force when reasonable. The bean bag shotgun also allows deputies to confront a potentially armed or dangerous suspect at a longer distance. This can potentially prevent a deadly force encounter. When necessary, there is no alternative to these less lethal weapon systems.

ALTERNATIVES

The Board could reject the proposed Military Equipment Use Policy, which would result in the EDSO being unable to use any of the equipment specified within in its operations.

PRIOR BOARD ACTION

None.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel reviewed and approved the Ordinance and Policy.

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

None.

CLERK OF THE BOARD FOLLOW UP ACTIONS

The Ordinance will not be codified. A copy of the approved Ordinance should be forwarded to the Sheriff's Office.

STRATEGIC PLAN COMPONENT

Good Governance, Public Safety.

CONTACT

Undersheriff Bryan Golmitz