

2.176. Military Equipment Use Policy

PURPOSE

This policy provides the San Bernardino County Sheriff's Department's (Department) "military equipment" use, acquisition, cataloging, and reporting procedures. (Gov. Code, § 7070 et seq.; Assem. Bill No. 481 (2021–2022 Reg. Sess.).)

MILITARY EQUIPMENT DEFINITION

The Department incorporates herein and in all documents related to this policy the definition of "military equipment" found in Government Code section 7070, subdivision (c).

ANNUAL MILITARY EQUIPMENT REPORT

The Department will provide an Annual Military Equipment Report to the San Bernardino County Board of Supervisors (Board of Supervisors). The report may include written and/or oral components. Any substantive written portion of the report will be available on the Department's public website (<https://wp.sbcounty.gov/sheriff/>). The report will address:

- a. **Inventory:** A description of the military equipment the Department had in use for the preceding calendar year, to include:
 1. The quantity, type, lifespan, and authorized use (purpose) of each piece of military equipment in the Department's possession;
 2. An explanation of the equipment's capabilities;
 3. A description of how the military equipment was used during the previous year; and
 4. The total annual cost for each type of military equipment, including acquisition, training,

transportation, storage, maintenance, upgrade, and other ongoing costs.

- b. **Acquisitions:** A description of the military equipment the Department seeks the Board of Supervisors' acquisition approval on for the following calendar year, with an explanation about the source of funds for that equipment.
- c. **Confirmed non-compliance:** Any instances of confirmed non-compliance with the Department's military equipment use policy.

As to its then-current inventory and any sought-after acquisitions, the Department will describe how the military equipment is:

- a. Necessary, because no reasonable alternatives to the equipment are available to achieve the same level of officer and civilian safety; and
- b. Reasonably cost-effective when compared to available alternatives that can achieve the same level of officer and civilian safety.

The Department will hold at least one well-publicized and conveniently located community engagement meeting where the public may discuss and ask questions about the Department's Annual Military Equipment Report and its funding, acquisition, and use of the described military equipment. The meeting will be held within 30 days of the Department's public release of its Annual Military Equipment Report.

(Gov. Code, §§ 7070, subd. (d); 7072, subs. (a)–(b).)

MILITARY EQUIPMENT USE

The Department's military equipment use will comply with the "authorized use" descriptions provided for all military equipment listed in the Department's Annual Military Equipment Report. The use will further comply with all applicable laws (e.g., *Graham v. Connor* (1989) 490 U.S. 386 and Penal Code section 835a [use of reasonable force])

and Vehicle Code section 21000 et seq. [operation of vehicles]) and all pertinent Department policies including, but not limited to:

- 1.438. Firearms Training Center (Range);
- 1.606. The Law Enforcement Code of Ethics;
- 1.614. Interaction with the Public;
- 1.656.10 Maintaining a Valid Driver's License;
- 1.678.15 Duty to Report Misconduct;
- 1.678.20 Member's Duty to Intercede;
- 1.807. Role of the Department Member;
- 1.812. Commitment to Community Relations Training;
- 2.636. Department Vehicles;
- 2.268.20 Use of Force Training: Subject Matters;
- 2.268.30 Use of Force Training: Failure to Qualify;
- 2.632. Special Weapons Defined;
- 3.102. Safe, Legal Driving of Department Vehicles;
- 3.124. Code Three Vehicle Operations;
- 3.146.10 Racial and Identification Profiling Act (RIPA);
- 3.146.30 Definitions Related to Bias;
- 3.234.20 SWAT Small Unmanned Aviation Systems (sUAS);
- 3.604. Use of Reasonable Force: Defined;
- 3.606. Factors Determining Reasonable Force;
- 3.606.10 De-Escalation;
- 3.610. Reporting the Use of Force;
- 3.610.30 Show of Force;
- 3.610.50 Self-Defense or Defense of Others;
- 3.624. Use of Chemical Agents;
- 3.624.10 Special Use Chemical Agents;
- 3.625. Pneumatic Launchers;

- 3.625.10 Pneumatic Launchers: Operational Use;
- 3.625.15 Pneumatic Launchers: Approved Munitions;
- 3.628 Less Lethal Force;
- 3.628.10 Less Lethal Weapons Systems: Preparation for Use;
- 3.628.15 Less Lethal Weapons Systems: Restrictions in Use;
- 3.628.20 Less Lethal Force: Medical Treatment;
- 3.628.25 Less Lethal Force: Required Training;
- 3.628.30 Reporting the Use of Less Lethal Force;
- 3.640. Lethal Force Encounters (LFE): Defined; and
- 3.640.10 – 3.640.90 Use of Lethal Force (LFE) Policies.

Department employees with control of military equipment have completed or will complete appropriate internal and external training in the equipment's safe and proper use that is:

- a. Consistent with the above and similar Department policies, including the Department's policies 1.114. through 1.128. on Member Development, In-Service Training, Specialized Training, Promotional Training, Supervisors as Trainers, Participation of Command Staff in Training, and Advanced Education or Training; and
- b. Provided by the Commission on Peace Officer Standards and Training, such as on Chemical Agents for Peace Officers; Civil Disobedience; Federal (FEMA) Training Requirement; Incident Command System (ICS); Law Enforcement Response to Terrorism (LERT); Long/Short Barrel Rifles; National Incident Management System (NIMS); Perishable Skills/Communications (including Tactical Firearms, Driver Training/Awareness, Arrest & Control, Strategic Communications, and Use of Force); Public Safety Communications Terrorism Awareness Course (PSC-TAC); Racial and Cultural Diversity Training; Racial Profiling; Short-barreled Shotguns or Short-barreled Rifles; SEMS - Standardized Emergency Management System (Disaster

Response); and Use of Force, as described at <https://post.ca.gov/Peace-Officer-Training>.

(Gov. Code, § 7070, subd. (d).)

COMPLIANCE

The Department will ensure employees comply with this policy. The Specialized Enforcement Division will conduct an annual audit of all military equipment. All other divisions that acquire, possess, or use military equipment shall be responsible to ensure their own compliance with this policy and will be subject to annual audit by the Specialized Enforcement Division. The Office of the Sheriff will be notified of any policy violations and, if the Office of the Sheriff deems it warranted, the violation(s) will be referred to the Internal Affairs Division for subsequent investigation.

(Gov. Code, §§ 7070, subd. (d); 7072, subd. (a).)

PUBLIC CONCERNS

Any member of the public may register a question or concern regarding the Department's military equipment by contacting the Department's Public Affairs Division via email at publicaffairs@sbcasd.org, or by writing to:

San Bernardino County Sheriff's Department
Attention: Public Affairs Division
655 E. Third Street
San Bernardino, CA 92415

Any member of the public who believes a Sheriff's Department employee violated Department policy may submit a Civilian Complaint form to the Sheriff's Department as per Department Policy Section 3.804.10, Use of the Civilian Complaint Form.

(Gov. Code, § 7070, subd. (d).)

CATALOGING OF MILITARY EQUIPMENT

The Department shall catalog all military equipment it maintains in accordance with the following requirements:

- a. A description of the equipment;
- b. The capabilities and purpose of the equipment;
- c. The expected lifespan of the equipment;
- d. The initial and on-going fiscal impact of the equipment;
and
- e. The quantity of the equipment.

Use of any military equipment by a Department member shall be documented using the Department's Military Equipment Use Form located in Starlink under Civil Liabilities.