

File No. 221062

Committee Item No. 8

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Jan. 23, 2023

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Information/Vacancies (Boards/Commissions) |
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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Equipment Use Inventory List |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Military Equipment Policy |
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Completed by: Victor Young

Date Jan 19, 2023

Completed by: _____

Date _____

[Administrative Code - Funding, Acquisition, and Use of Certain Sheriff's Department Equipment]

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Background.

(a) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), codified in California Government Code Sections 7070 *et seq.*, requiring law enforcement agencies to obtain approval by ordinance of an equipment use policy to allow the use of particularly defined new or existing law enforcement equipment for a purpose, in a manner, or by a person not previously approved by the governing body. Government Code Sections 7070 *et seq.* define the specific equipment subject to this requirement, the minimum requirements for the policy, and the standards for the approval of the governing body. The covered equipment is also summarized in Section 1 of the ordinance in Board of Supervisors File No. 220641.

(b) On May 24, 2022, the Mayor introduced an ordinance to add a chapter to the Administrative Code to require Board of Supervisors approval of a policy governing the

1 funding, acquisition, and use of certain law enforcement equipment consistent with the criteria
2 set forth in California Government Code Section 7071(d). That ordinance covered the Police
3 Department. On July 11, 2022, the Rules Committee of the Board amended that ordinance to
4 include approval of the Police Department's Use of Equipment Policy. That ordinance, in File
5 No. 220641 of the Board of Supervisors, is still pending before the Board, and is scheduled for
6 an additional hearing at the Rules Committee.

7 (c) As introduced, the codified portion of the ordinance in Board File No. 220641 is
8 designated Chapter 96G, including Section 96G.1, but it is anticipated that the chapter and
9 section numbers will be redesignated as Chapter 96H and Section 96H.1. For purposes of
10 the font used to show amendments to existing Code text in Section 4 of this ordinance, this
11 ordinance assumes that the aforementioned, previously introduced ordinance has been so
12 redesignated and has been enacted with the text as amended at the July 11 Rules Committee
13 hearing.

14
15 Section 2. Findings and Approval of Sheriff's Equipment Use Policy.

16 (a) The Sheriff prepared an inventory of existing equipment covered by California
17 Government Code Sections 7070 *et seq.* and an equipment use policy ("Inventory" and
18 "Policy" respectively) to govern the use by the Sheriff's Department of the equipment covered
19 by Government Code Sections 7070 *et seq.* and listed in the Inventory. A copy of the
20 Inventory and Policy are in Board File No. 221062, and are incorporated herein by
21 reference.

22 (b) The Board of Supervisors hereby finds that

23 (1) The equipment set forth in the Inventory is necessary because there is no
24 reasonable alternative that can achieve the same objective of officer and civilian safety;

1 (2) The Policy will safeguard the public's welfare, safety, civil rights, and civil
2 liberties;

3 (3) The equipment set forth in the Inventory is reasonably cost effective; and

4 (4) The Policy satisfies the requirements of AB 481 as codified in California
5 Government Code Section 7070(d).

6 (c) The Board of Supervisors hereby approves the Policy for the Sheriff' that shall
7 govern the use of equipment listed in the Inventory.

8
9 Section 3. Annual Report, Posting, and Community Meeting.

10 (a) Annual Report. As required by state law, within one year of the effective date of
11 this ordinance, the Sheriff shall submit to the Board an annual equipment report for each type
12 of equipment in the Inventory, and annually thereafter for as long as the equipment is
13 available for use.

14 (b) As required by state law, the Sheriff also shall post on its website the annual
15 equipment report required for as long as the equipment is available for use. The annual
16 equipment report shall, at a minimum, include the following information for the immediately
17 preceding calendar year for each type of equipment included in the Inventory:

18 (1) A summary of how the equipment was used and the purpose of its use.

19 (2) A summary of any complaints or concerns received concerning the
20 equipment.

21 (3) The results of any internal audits, any information about violations of the
22 equipment use policy, and any actions taken in response.

23 (4) The total annual cost for each type of equipment, including acquisition,
24 personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs,

1 and from what source funds will be provided for the equipment in the calendar year following
2 submission of the annual equipment report.

3 (5) The quantity possessed for each type of equipment.

4 (6) If the Sheriff intends to acquire additional equipment covered by
5 Government Code Section 7070 in the next year, the quantity sought for each type of
6 equipment.

7 (c) As required by state law, within 30 days of submitting and publicly releasing its
8 required annual equipment report, the Sheriff shall hold at least one well-publicized and
9 conveniently located community engagement meeting, at which the general public may
10 discuss and ask questions regarding the annual equipment report and the Sheriff's funding,
11 acquisition, or use of equipment.

12 (d) California Government Code Section 7071(e)(1) requires the Board of Supervisors
13 to review any ordinance approving the funding, acquisition, or use of covered equipment,
14 annually, and determine whether to renew the ordinance consistent with applicable law. If the
15 Board of Supervisors determines that a type of covered equipment identified in the Sheriff's
16 annual Law Enforcement Equipment Report has not complied with state law, Government
17 Code Section 7071(e)(2) requires that the Board of Supervisors either disapprove a renewal
18 of the authorization for that type of equipment or require modifications to the Law Enforcement
19 Use of Equipment Policy to comply with state law.

20
21 Section 4. The Administrative Code is hereby amended by revising Chapter 96H and
22 Section 96H.1, to read as follows:

23 **CHAPTER 96H: ~~POLICE DEPARTMENT~~ LAW ENFORCEMENT EQUIPMENT**
24 **POLICY~~IES~~**

1 **SEC. 96H.1. FUNDING, ACQUISITION, AND USE OF CERTAIN ~~POLICE~~ LAW**
2 **ENFORCEMENT EQUIPMENT.**

3 (a) Pursuant to California Government Code Sections 7070 ~~et seq.~~et. seq., law
4 ~~enforcement agencies, including~~ the Police Department ~~and Sheriff's Department, is are~~ required to
5 obtain Board of Supervisors' approval of a Use of Equipment Policy prior to seeking funding
6 for, acquisition of, and use of certain law enforcement equipment.

7 (b) The Police Department ~~and Sheriff's Department~~ shall each submit a draft Use of
8 Equipment Policy to the Board of Supervisors for approval. Thereafter, ~~the Police~~
9 ~~Department~~each agency shall review its respective approved ~~Law Enforcement~~ Use of Equipment
10 Policy and submit a report regarding the covered equipment within one year of receiving
11 Board of Supervisors approval, and annually thereafter for as long as the covered equipment
12 is available for use. Each agency seeking approval of its Use of Equipment Policy ~~The Police~~
13 ~~Department~~ shall hold a public hearing on the Use of Equipment Policy and annual report prior
14 to submitting the annual report to the Board of Supervisors for its review and approval. The
15 Use of Equipment Policy and annual report shall be publicly available and posted on the
16 agency's ~~Police Department's~~ website for at least 30 days prior to said hearing.

17 (c) The Board of Supervisors may only approve the Use of Equipment Policy governing
18 the funding, acquisition, and use of certain law enforcement equipment consistent with the
19 criteria set forth in state law, referenced in subsection (a).

20
21 Section 5. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 6. Undertaking for the General Welfare. In enacting and implementing this
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
4 is liable in money damages to any person who claims that such breach proximately caused
5 injury.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Jana Clark
11 JANA CLARK
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Funding, Acquisition, and Use of Certain Sheriff's Department Equipment]

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

Existing Law

On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), codified in California Government Code Sections 7070 *et seq.*, requiring law enforcement agencies to obtain approval by ordinance of an equipment use policy to allow the use of particularly defined new or existing law enforcement equipment for a purpose, in a manner, or by a person not previously approved by the governing body. State law defines the specific equipment subject to this requirement, the minimum requirements for the policy, and the standards for the approval of the governing body.

On May 24, 2022, the Mayor introduced an ordinance to add Chapter 96G to the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain Police Department equipment. On July 11, 2022, the Rules Committee of the Board amended that ordinance to include approval of the Police Department's Use of Equipment Policy. That ordinance, in File No. 220641 of the Board of Supervisors, is still pending before the Board, and is scheduled for an additional hearing at the Rules Committee.

Amendments to Current Law

This ordinance would amend Administrative Code Chapter 96G to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain Sheriff's Department equipment. In addition, this ordinance would include Board of Supervisors approval of the Sheriff's Department's Use of Equipment Policy. As introduced, the codified portion of the ordinance in Board File No. 220641 is designated Chapter 96G, including Section 96G.1, but it is anticipated that the chapter and section numbers will be redesignated as Chapter 96H and Section 96H.1.



OFFICE OF THE SHERIFF CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE
ROOM 456, CITY HALL
SAN FRANCISCO, CALIFORNIA 94102



**PAUL MIYAMOTO
SHERIFF**

October 21, 2022
Reference: CLC 2022-032

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Proposed Ordinance of San Francisco Sheriff's Office Equipment Use Policy

Dear Ms. Calvillo:

Attached please find the proposed ordinance for the Board of Supervisors approval. Assembly Bill 481 ("AB 481"), codified in California Government Code Sections 7070 *et seq.*, requires law enforcement agencies to obtain approval by ordinance of an equipment use policy to allow the use of particularly defined new or existing law enforcement equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

The following is a list of accompanying documents:

- Proposed Ordinance
- Legislative Digest
- Military Equipment Policy
- Equipment Use Inventory List

The following person may be contacted regarding this matter: Margaret Baumgartner, Chief Legal Counsel, Work Cell: 415-470-1336, margaret.baumgartner@sfgov.org

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret W. Baumgartner".

MARGARET W. BAUMGARTNER
Chief Legal Counsel

San Francisco Sheriff's Office
Equipment Inventory, Cal. Gov. Code Section 7070

October 2022

A. Unmanned, remotely piloted, powered aerial or ground vehicles	
1. Description	Product Name/Description: DJI Mavic 2 Enterprise (Dual) w/ Smart Controller and DJI Enterprise Shield Basic Expected Lifespan: 5 years
2. Purpose of Use	Built upon the Mavic 2 flight platform, the Mavic 2 Enterprise with DJI Smart Controller from DJI is an advanced, enterprise-level drone solution for demanding applications. Authorized use cases include: <ul style="list-style-type: none"> i. Critical Incidents ii. Search and Rescue iii. Natural or Manmade Disaster Response iv. Training v. Community Engagement
3. Fiscal Impact	N/A Only Initial cost \$4800.00
4. Legal and Procedural Rules	Sheriff's Office Unmanned Aircraft System (UAS) Policy Use of vision enhancement technology (e.g., thermal and other imaging technology) is permissible only in areas where there is no reasonable expectation of privacy, or when in compliance with a search warrant or court-order. In all other instances, legal counsel should be consulted. <ul style="list-style-type: none"> a. Only authorized Operators shall be permitted to deploy the UAS. b. UAS Operators shall obtain supervisor approval prior to conducting a UAS deployment. c. UAS operations shall only be conducted in accordance with the San Francisco Sheriff's Department FAA Certificate of Waiver or Authorization (COA), or within the guidelines set out in Title 14 CFR, Part 107 (Code of Federal Regulations.) d. UAS deployment should be considered on a case by case basis under the criteria for authorized use such as during specific incidents when an aerial view would assist officers or Incident commanders.
5. Training	Training will be conducted within established guidelines to ensure operators acquire and maintain proficient UAS skills and knowledge of regulations and safe operating procedures. Only Operators who have completed the required training shall be authorized to operate the UAS. Part 107 Certified / FAA requirement. There are no POST Training Requirements

B. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.	
1. Description	Product Name/Description: 2013 Ford F59 Expected Lifespan: 100,000 miles
2. Purpose of Use	Equipment transport
3. Fiscal Impact	Initial cost \$135,000.00. Estimated annual cost of maintenance (not including repairs): \$740.00.
4. Legal and Procedural Rules	As needed to transport equipment
5. Training	Commercial license Current Class C License
B. (cont.) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.	
1. Description	Product Name/Description: 2012 Freightliner MT55 2012 Freightliner Chassis <ul style="list-style-type: none"> • Cummins Engine • Addison Transmission • 60 Gallon diesel tank • Generator will draw from gas tank until 25% level • Height: 12 ft • Length: 39.5 ft • Width: 8 ft • Weight: 27,940 lbs • GVWR: 30,000 lbs Expected Lifespan: 200,000 miles
2. Purpose of Use	Mobile Command Operations
3. Fiscal Impact	Initial cost \$580,000.00. Estimated annual cost of maintenance (not including repairs): \$6,105.00.
4. Legal and Procedural Rules	2013 SFSO Mobile Command Unit Operations Procedures
5. Training	Current Class B License

C. Battering rams, slugs and breaching apparatuses that are explosive in nature	
1. Description	Breaching Slugs Royal Arms International- Compressed Copper Powder 425 Grains Expected lifespan: N/A
2. Purpose of Use	Breaching slugs are used to defeat locked, barricaded or fortified locations allowing deputies to conduct rescues or high-risk forcible entries during high risk and critical incidents. Breaching slugs shall not be utilized outside of training, criminal apprehensions, critical incidents, exigent circumstances or executing a warrant.
3. Fiscal Impact	Initial Cost: n/a Estimated annual cost to maintain the equipment: \$987.75

4. Legal and Procedural Rules	SFSD-02-06 Shotgun policy, SFSD-300 Use of Force, SFSO Directive 08072022-1
5. Training	SRT members identified as “Breachers” must complete a Shotgun Breacher Course prior to deploying Breacher slugs. Ongoing training that emphasizes the safe use of ballistic breaching throughout the training cycle.

D. “Flashbang” grenades and explosive tools, “tear gas”, excluding standard, service-issued handheld pepper spray	
1.Description	PRODUCT NAME/DESCRIPTION
Flash Bang Grenade/ Tear Gas	<p>Combined Tactical Systems- 7290 The 7290 produces a 165-180db and 6-8 million candela of light output. The patented design of the 7290, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output. Flash Bangs are used by special tactical units during hostage rescue and high-risk warrants. It is an ATF-controlled Class-C explosive device that emits a bright light and thunderous noise to distract potentially dangerous individuals.</p> <p>Defense Technologies 1016 The Pocket Tactical CS Grenade is small, and lightweight. The 0.9 oz. of active agent will burn approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. Though this device is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full size tactical grenade.</p> <p>Expected Lifespan: 5 years</p>
2.Purpose of Use	Flashbangs are used as a distraction device 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 threats. This can prevent injury to citizens and deputies. These devices can often lead to a safer resolution and allow deputies to take a suspect into custody without a higher level of force. There is no known alternative to a flash bang when it is necessary. Chemical agents may be used in criminal apprehensions and control situations (in critical incidents and other circumstances that require the use of chemical agents to protect life and public safety.)
3.Fiscal Impact	Flash Bang: \$2380.00 (\$47.60 per unit) Defensive Technologies 1016 : \$735.00 (\$29.40 per unit)
4. Legal and Procedural Rules	SFSO Directive 08072022-2, SFSD – 300 Use of Force.

5. Training	SRT has Chemical Agent Instructors that must complete a 40hr. Chemical Agent Instructor Course.
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E. Projectile launch platforms and their associated munitions: 37mm and 40mm projectile launchers, and specialty impact munition (SIM) weapons.	
1.Description	<p>40mm Launchers CTS 4340 OC Liquid Barricade CTS 4431 Powder Barricade CTS 4441 OC Powder Barricade CTS 4557 Foam Baton 37mm ARWEN Mark III Launcher AR-1 ARWEN Impact Baton, Standard Energy</p> <p>Expected lifespan: N/A</p>
2. Purpose of Use	<p>40mm Launcher The 40 mm launcher affords the ability to use less lethal chemicals and impact munitions. This is designed to fire a projectile to temporarily incapacitate a subject and is considered a less-lethal weapon. Chemical agents are specifically formulated smokes, liquids and powders designed to temporarily disable a person by causing irritation of the mucous membrane, eyes and skin. They may be a less lethal force option and significantly reduce the risk of injury to citizens, suspects and deputies. These agents may be used in criminal apprehensions and critical incidents.</p> <p>37mm ARWEN Mark III Launcher The Arwen is a shoulder fired 37 MIM rotary magazine weapon that is capable of firing a kinetic energy baton. It is intended to provide a possible alternative level of force than conventional firearms. The ARWEN 37 weapon is light: 3.11kg (6lb, 14oz) unloaded or 3.83kg (8lb, 4oz) loaded with 5 AR-1 baton rounds; finished in matte black and, because of its design, is very safe. It is very easy to use, being suitable for right or left-handed operators of any height or build. The AIR-1 Less Lethal baton is a standard energy impact round. This round is primarily used as a kinetic energy less lethal force option.</p>
3.Fiscal Impact	<p>Initial Cost: CTS 4340 OC Liquid Barricade: \$1104.50 (\$22.09 per unit) CTS 4431 Powder Barricade \$1148.50 (\$22.97 per unit) CTS 4441 OC Powder Barricade \$1148.50 (\$22.97 per unit) CTS 4557 Foam Baton \$3800.00 (19.00 per unit) AIR-1 ARWEN Impact Baton, Standard Energy \$9,649.28 (\$24.99 per unit)</p>

4. Legal and Procedural Rules	SFSO Directive 08072022-3, SFSO Use of Force, ARWEN 37mm- SFSD 02-04 Projectile Impact Weapon
5. Training	SRT Members must complete training prior to deploying chemical agents by means of a 40mm launcher. ESU members must complete a Less Lethal Munitions class once every two years before deploying a 37mm ARWEN

F. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.	
1. Description	The 5.56mm rifle is a firearm capable of accurately stopping an armed subject at various distances. The rifle is a lightweight, air-cooled, gas-operated, magazine-fed, shoulder-fired weapon designed for either semiautomatic or select fire. Expected Lifespan: N/A Repair and replace as necessary
2. Purpose	To provide deputies with an accurate weapon to address a threat with more precision and range than a pistol. Qualified deputies may also deploy the rifle in situations where he or she reasonably believes that a suspect may be armed and or wearing body armor.
3. Fiscal Impact	Initial Cost: \$1900 Quantity: 73 department owned
4. Legal and Procedural Rules	SFSD 03-05 Rifles/Submachineguns
5. Training	Deputies who have completed a POST certified training regarding short-barrel rifles and possess a current qualification may deploy a rifle.

F. (cont.) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

1. Description	<p>The 7.62mm rifle is a firearm capable of accurately stopping an armed subject at various distances. The rifle is a magazine-fed, shoulder-fired weapon designed for semiautomatic fire. It has a short-stroke gas piston system that offers reliability and easy maintenance.</p> <p>Monoforge™ upper receiver with integrated rail-base is stronger than the standard-pattern upper. Black Nitride treated LWRCI™ heavy-profile barrel is precisely torqued to a consistent torque setting. Cold hammer forged 1:10 twist stabilizes a wide range of bullet types. Fully-ambidextrous lower receiver controls include the bolt catch and release, the magazine release, and the safety selector. Geissele® SSA-E 2-Stage Precision Trigger.</p> <p>Expected Lifespan: N/A Repair and replace as necessary</p>
2. Purpose	<p>To provide deputies with an accurate weapon to address a threat with more precision and range than a pistol. Qualified deputies may also deploy the rifle in situations where he or she reasonably believes that a suspect may be armed and or wearing body armor.</p>
3. Fiscal Impact	Initial Cost: \$5000 Quantity: 4 department owned
4. Legal and Procedural Rules	SFSD 03-05 Rifles/Submachineguns
5. Training	<p>Special Response Team deputies who have been identified as a sniper by the SRT commander and having completed a designated marksman course, completed a POST certified training regarding short-barrel rifles and possess a current qualification may deploy a 7.62 rifle.</p>

Military Equipment

704.1 PURPOSE AND SCOPE

State

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

704.1.1 DEFINITIONS

State

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

San Francisco Sheriff's Department

Administration and Field Operations Policy Manual

Military Equipment

704.2 POLICY

State

It is the policy of the San Francisco Sheriff's Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

704.3 MILITARY EQUIPMENT COORDINATOR

Best Practice

The Sheriff has designated the Field Operations Division Captain in charge of the Special Operations unit to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of San Francisco Sheriff's Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Sheriff and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

704.4 MILITARY EQUIPMENT INVENTORY

State

For purposes of transparency, the San Francisco Sheriff's Department has created an inventory and use policy for all equipment that could fall under the definition of military equipment. The inventory and use policy, as updated from time to time, is attached hereto.

704.5 APPROVAL

State

The Sheriff or the authorized designee will post the draft inventory and use policy on its website, and submit it to the San Francisco Board of Supervisors for approval, and will obtain approval prior to:

San Francisco Sheriff's Department

Administration and Field Operations Policy Manual

Military Equipment

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

704.6 COORDINATION WITH OTHER JURISDICTIONS

State

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

704.7 ANNUAL REPORT

State

The Sheriff or the authorized designee will submit a military equipment report to the governing body annually for every year military equipment is available for use (Government Code § 7072).

The Sheriff or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

704.8 COMMUNITY ENGAGEMENT

State

Within 30 days of submitting and publicly releasing the annual military equipment report, the Department will hold at least one well-publicized and conveniently located community engagement meeting, at which the Department will discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

TO: Paul Miyamoto, Sheriff

FROM: Victor Young, Assistant

A handwritten signature in black ink that reads "Victor Young".

DATE: Clerk October 26, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 221062

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc: Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Tara Moriarty, Sheriff's Department
Rich Jue, Sheriff's Department
Christian Kropff, Sheriff's Department

[Administrative Code - Funding, Acquisition, and Use of Certain Sheriff's Department Equipment]

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Background.

(a) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), codified in California Government Code Sections 7070 *et seq.*, requiring law enforcement agencies to obtain approval by ordinance of an equipment use policy to allow the use of particularly defined new or existing law enforcement equipment for a purpose, in a manner, or by a person not previously approved by the governing body. Government Code Sections 7070 *et seq.* define the specific equipment subject to this requirement, the minimum requirements for the policy, and the standards for the approval of the governing body. The covered equipment is also summarized in Section 1 of the ordinance in Board of Supervisors File No. 220641.

(b) On May 24, 2022, the Mayor introduced an ordinance to add a chapter to the Administrative Code to require Board of Supervisors approval of a policy governing the

1 funding, acquisition, and use of certain law enforcement equipment consistent with the criteria
2 set forth in California Government Code Section 7071(d). That ordinance covered the Police
3 Department. On July 11, 2022, the Rules Committee of the Board amended that ordinance to
4 include approval of the Police Department's Use of Equipment Policy. That ordinance, in File
5 No. 220641 of the Board of Supervisors, is still pending before the Board, and is scheduled for
6 an additional hearing at the Rules Committee.

7 (c) As introduced, the codified portion of the ordinance in Board File No. 220641 is
8 designated Chapter 96G, including Section 96G.1, but it is anticipated that the chapter and
9 section numbers will be redesignated as Chapter 96H and Section 96H.1. For purposes of
10 the font used to show amendments to existing Code text in Section 4 of this ordinance, this
11 ordinance assumes that the aforementioned, previously introduced ordinance has been so
12 redesignated and has been enacted with the text as amended at the July 11 Rules Committee
13 hearing.

14
15 Section 2. Findings and Approval of Sheriff's Equipment Use Policy.

16 (a) The Sheriff prepared an inventory of existing equipment covered by California
17 Government Code Sections 7070 *et seq.* and an equipment use policy ("Inventory" and
18 "Policy" respectively) to govern the use by the Sheriff's Department of the equipment covered
19 by Government Code Sections 7070 *et seq.* and listed in the Inventory. A copy of the
20 Inventory and Policy are in Board File No. _____, and are incorporated herein by
21 reference.

22 (b) The Board of Supervisors hereby finds that

23 (1) The equipment set forth in the Inventory is necessary because there is no
24 reasonable alternative that can achieve the same objective of officer and civilian safety;

1 (2) The Policy will safeguard the public's welfare, safety, civil rights, and civil
2 liberties;

3 (3) The equipment set forth in the Inventory is reasonably cost effective; and

4 (4) The Policy satisfies the requirements of AB 481 as codified in California
5 Government Code Section 7070(d).

6 (c) The Board of Supervisors hereby approves the Policy for the Sheriff' that shall
7 govern the use of equipment listed in the Inventory.

8
9 Section 3. Annual Report, Posting, and Community Meeting.

10 (a) Annual Report. As required by state law, within one year of the effective date of
11 this ordinance, the Sheriff shall submit to the Board an annual equipment report for each type
12 of equipment in the Inventory, and annually thereafter for as long as the equipment is
13 available for use.

14 (b) As required by state law, the Sheriff also shall post on its website the annual
15 equipment report required for as long as the equipment is available for use. The annual
16 equipment report shall, at a minimum, include the following information for the immediately
17 preceding calendar year for each type of equipment included in the Inventory:

18 (1) A summary of how the equipment was used and the purpose of its use.

19 (2) A summary of any complaints or concerns received concerning the
20 equipment.

21 (3) The results of any internal audits, any information about violations of the
22 equipment use policy, and any actions taken in response.

23 (4) The total annual cost for each type of equipment, including acquisition,
24 personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs,

1 and from what source funds will be provided for the equipment in the calendar year following
2 submission of the annual equipment report.

3 (5) The quantity possessed for each type of equipment.

4 (6) If the Sheriff intends to acquire additional equipment covered by
5 Government Code Section 7070 in the next year, the quantity sought for each type of
6 equipment.

7 (c) As required by state law, within 30 days of submitting and publicly releasing its
8 required annual equipment report, the Sheriff shall hold at least one well-publicized and
9 conveniently located community engagement meeting, at which the general public may
10 discuss and ask questions regarding the annual equipment report and the Sheriff's funding,
11 acquisition, or use of equipment.

12 (d) California Government Code Section 7071(e)(1) requires the Board of Supervisors
13 to review any ordinance approving the funding, acquisition, or use of covered equipment,
14 annually, and determine whether to renew the ordinance consistent with applicable law. If the
15 Board of Supervisors determines that a type of covered equipment identified in the Sheriff's
16 annual Law Enforcement Equipment Report has not complied with state law, Government
17 Code Section 7071(e)(2) requires that the Board of Supervisors either disapprove a renewal
18 of the authorization for that type of equipment or require modifications to the Law Enforcement
19 Use of Equipment Policy to comply with state law.

20
21 Section 4. The Administrative Code is hereby amended by revising Chapter 96H and
22 Section 96H.1, to read as follows:

23 **CHAPTER 96H: ~~POLICE DEPARTMENT~~ LAW ENFORCEMENT EQUIPMENT**
24 **POLICY~~IES~~**

1 **SEC. 96H.1. FUNDING, ACQUISITION, AND USE OF CERTAIN ~~POLICE~~ LAW**
2 **ENFORCEMENT EQUIPMENT.**

3 (a) Pursuant to California Government Code Sections 7070 ~~et seq.~~et. seq., law
4 ~~enforcement agencies, including~~ the Police Department ~~and Sheriff's Department, is are~~ required to
5 obtain Board of Supervisors' approval of a Use of Equipment Policy prior to seeking funding
6 for, acquisition of, and use of certain law enforcement equipment.

7 (b) The Police Department ~~and Sheriff's Department~~ shall each submit a draft Use of
8 Equipment Policy to the Board of Supervisors for approval. Thereafter, ~~the Police~~
9 ~~Department~~each agency shall review its respective approved ~~Law Enforcement~~ Use of Equipment
10 Policy and submit a report regarding the covered equipment within one year of receiving
11 Board of Supervisors approval, and annually thereafter for as long as the covered equipment
12 is available for use. Each agency seeking approval of its Use of Equipment Policy ~~The Police~~
13 ~~Department~~ shall hold a public hearing on the Use of Equipment Policy and annual report prior
14 to submitting the annual report to the Board of Supervisors for its review and approval. The
15 Use of Equipment Policy and annual report shall be publicly available and posted on the
16 agency's ~~Police Department's~~ website for at least 30 days prior to said hearing.

17 (c) The Board of Supervisors may only approve the Use of Equipment Policy governing
18 the funding, acquisition, and use of certain law enforcement equipment consistent with the
19 criteria set forth in state law, referenced in subsection (a).

20
21 Section 5. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 6. Undertaking for the General Welfare. In enacting and implementing this
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
4 is liable in money damages to any person who claims that such breach proximately caused
5 injury.

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7
8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Jana Clark
11 JANA CLARK
12 Deputy City Attorney

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