

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF SUTTER, STATE OF CALIFORNIA**

A RESOLUTION OF THE SUTTER COUNTY)
BOARD OF SUPERVISORS REVIEWING)
SUTTER COUNTY DISTRICT ATTORNEY'S)
OFFICE MILITARY EQUIPMENT POLICY)

RESOLUTION NO. 23-080

WHEREAS, the State of California enacted Assembly Bill 481 (AB 481), codified in California Government Code sections 7070-7075; and

WHEREAS, AB 481 required the Sutter County District Attorney's Office (District Attorney's Office) to obtain the approval of the Sutter County Board of Supervisors (Board), by an ordinance adopting a military equipment use policy, to continue the use of any "military equipment", as defined by Government Code section 7070(c); and

WHEREAS, on September 13, 2022, the Board approved the District Attorney's Office Military Equipment Policy Ordinance No.1699; and the Board of Supervisors has received and reviewed the Report and Policy, and by way of this ordinance, renews the approval of the Policy; and

WHEREAS, the District Attorney's Office Military Equipment Policy Ordinance No.1699 is subject to annual Board review to determine whether, based on an annual military equipment report, the standards set forth in the approved ordinance have been met.

WHEREAS, the Board of Supervisors shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting in accordance with Government Code Section 7071(e)(2); and

WHEREAS, the District Attorney's Office use of equipment, which may appear to be militaristic, is intended to maintain peace, protect the innocent, and protect the public's civil rights in the least intrusive manner; and

WHEREAS, in accordance with Government Code section 7071, the Board shall only approve a military equipment use policy if it determines all of the following: (1) the military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; (2) the proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties; (3) 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; and (4) 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 use policy, corrective action has been taken to remedy non-conforming uses and ensure future compliance; and

WHEREAS, the District Attorney's Office has submitted to the Board the 2023 Annual Military Equipment Report for each type of military equipment approved by the Board, and will continually submit an annual report hereafter for as long as the military equipment is available for use; and

WHEREAS, the District Attorney's Office also makes each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use.

NOW, THEREFORE, BE IT RESOLVED that the Sutter County Board of Supervisors hereby:

Section 1. The Sutter County District Attorney's Office Military Use Policy, attached as Exhibit A, is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; will safeguard the public's welfare, safety, civil rights, and civil liberties; and is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

Section 2. The Sutter County District Attorney's Office Military Equipment Use Policy, attached as Exhibit A, is approved.

Section 3. The Sutter County District Attorney's Office Military Use Policy Ordinance No. 1699 has been reviewed and based on the District Attorney's 2023 Annual Military Equipment Report, the standards set forth in the ordinance have been met as set forth in AB 481.

Section 4. The Sutter County District Attorney's 2023 Annual Military Equipment Report, attached as Exhibit B, has been reviewed and approved.


PASSED AND ADOPTED by the Board of Supervisors of the County of Sutter, State of California, on this 10th day of October 2023 by the following vote:

AYES: Supervisors Micheli, Flores, Bains, and Conant

NOES: None

ABSENT: Supervisor Ziegenmeyer

ABSTAIN: None


KARM BAINS, CHAIR
BOARD OF SUPERVISORS

ATTEST:
DONNA M. JOHNSTON, CLERK

BY 
DEPUTY

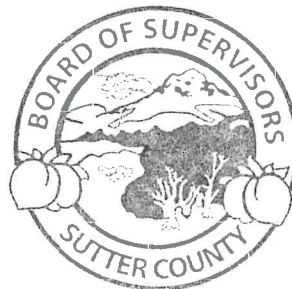


EXHIBIT A

CHAPTER 28 – MILITARY EQUIPMENT

28.1 PURPOSE AND SCOPE

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).

28.2 DEFINITIONS

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

Governing body – The Sutter County Board of Supervisors.

Military equipment – Items defined by Government Code § 7070 (c)(1) through (c)(16).

28.3 POLICY

It is the policy of the Sutter County District Attorney's Office that members of this office comply with the provisions of Government Code § 7071 with respect to military equipment.

28.4 MILITARY EQUIPMENT COORDINATOR

The District Attorney should designate a member of this office to act as the military equipment coordinator, typically the Chief Investigator. 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 office equipment that qualifies as military equipment in the current possession of the Office, or the equipment the Office 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 Sutter County District Attorney's Office (Government Code § 7071).
- (e) Preparing the annual military equipment report for submission to the District Attorney and ensuring that the report is made available on the office website (Government Code § 7072).
- (f) Obtaining information for PRA requests or complaints.

28.5 MILITARY EQUIPMENT INVENTORY

The Sutter County District Attorney's Office use of "military equipment" is consistent with the best practices and standards in law enforcement. The following constitutes a list of qualifying military equipment for use by the Office:

- AR-15 style rifles

28.6 APPROVAL

The District Attorney or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the District Attorney or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the office website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (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 office.
- (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.

28.7 COORDINATION WITH OTHER JURISDICTIONS

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.

28.8 ANNUAL REPORT

Upon approval of a military equipment policy, the District Attorney or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The District Attorney or the authorized designee should also make each annual military equipment report publicly available on the office website for as long as the 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 office inventory.

28.9 COMMUNITY ENGAGEMENT

In seeking the approval of the Governing body, the Sutter County District Attorney's Office shall submit a proposed military equipment use policy, or subsequent amendments, to the Governing body and the public via the Sutter County District Attorney's Office internet website. This shall be done at least 30 days prior to any public hearing concerning the military equipment at issue.

28.10 MAINTENANCE OF MILITARY USE SUPPLY LEVELS

When stocks of military equipment have reached significantly low levels or have been exhausted, the District Attorney's Office may order up to 10% of stock in a calendar year without Governing Body approval to maintain essential availability for the District Attorney's Office needs. The Sutter County District Attorney's Office is authorized to acquire additional stock of items in the event of an emergency when approved by the District Attorney or designee. The Governing Body further determines that all military equipment previously listed as part of the District Attorney's Office 2021-22 annual budget request, but which has not yet been acquired, is in compliance with this policy, and therefore authorizes and approves such acquisition.

EXHIBIT B

Type: Automatic Rifles	Franklin Armory AR-15 semi-automatic rifles
Description	Semi-automatic rifles capable of delivering one round at a time.
Quantity	6 semi-automatic rifles.
Capabilities	Operational range 0-500 plus yards.
Expected lifespan	10-15 yrs.
Manufacturer's description	The Franklin Armory AR-15 rifles are lightweight, magazine-fed, gas operated, semi-automatic rifles.
Purpose and authorized uses	To address the risks posed to the public and office members by violent and sometimes well-armed persons.
Fiscal impact	Initial cost, \$5,000.
Legal and procedural rules	Refer to policies: Chapters 5 & 8.
Required training	Initial orientation course including qualification; annual recertification including qualification.
Compliance mechanisms	Use is subject to the applicable policies

Additionally, per Government Code 7072, SCDA shall report the following to the Board:

1. A summary of complaints: There have been no complaints.
2. Results of internal audits about violations of the military equipment use policy: There were no violations of policy or internal audits.
3. Does agency intend to purchase more military equipment?: Currently, staff does not plan to add any new type of equipment.