



# STAFF REPORT

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April 20, 2022  
File Number 0110-10

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## SUBJECT

### APPROVAL OF THE ESCONDIDO POLICE DEPARTMENT MILITARY EQUIPMENT USE POLICY

## DEPARTMENT

POLICE

## RECOMMENDATION

It is requested that the City Council adopt Ordinance No. 2022-07, approving Department Instruction No. 1.55, Military Equipment Use Policy, in accordance with newly established state law requirements as set forth in Assembly Bill No. 481 ("AB 481").

Staff Recommendation: Approval (Police: Edward Varso)

Presenters: Edward Varso, Chief of Police; Kevin Toth, Police Captain; Lisa Rodelo, Deputy Director of Police Support Services

## FISCAL ANALYSIS

There are no additional costs associated with this new state requirement.

## PREVIOUS ACTION

None.

## BACKGROUND

### Establishment of AB 481

On September 30, 2021, Governor Newsom approved AB 481 to require, beginning May 1, 2022, a law enforcement agency to seek approval to fund, acquire, and use military equipment as defined in the new law.

Assembly Bill 481 added three sections to the California Government Code statutes to address the use of military equipment by a local police force. Cal. Govt. Code section 7070 broadly defines military equipment to include items that are commercially available products. The military equipment used by the Department is commonly used by other law enforcement agencies, may be available for sale to the general public, and helps the Department keep the community safe.



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California Govt. Code section 7071 provides the requirements for a military use policy and an annual review by the City Council. The City Council must determine a military use policy demonstrates that:

- a. The equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- b. The policy will safeguard the public's welfare, safety, civil rights and civil liberties.
- c. If purchasing the equipment, it must be reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- d. Prior military equipment use complies 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 taken to remedy the nonconforming uses and ensure the future compliance.

The Escondido Police Department is committed to using the most up to date tools and equipment to safeguard the community. Equipment now defined as "military equipment" has been used by the Department and other law enforcement agencies across the country on a daily basis. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to a higher level of force including a lethal force encounter. To that end, the items at issue in this report, and accompanying military equipment use policy, also provide the Department's peace officers with vital tools that facilitate compliance with the Department's stringent use of force policy. For example, Escondido Police officers have faced gun fire from suspects for prolonged incidents which required the use of armored/ballistic vehicles to protect the officers and community members. The protection with ballistic equipment allows for more time and opportunity to attempt to de-escalate situations and provide for safer tactics to resolve life threatening events in the safest way possible to both officers and community members.

California Govt. Code section 7072 requires an annual military equipment report. Although law does not require an annual report until one year following approval of the military use policy, much of the information is also required by the other pertinent laws prior to use of the military equipment. Thus, in the interest of transparency, and in an effort to provide a baseline for next year, the Department's proposed Military Equipment Use policy includes an annual report. In an effort to promote community engagement the Department posted the proposed policy on its internet website on March 17, 2022 and conducted a public meeting on April 11, 2022, at the Police and Fire Headquarters.



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### How the Police Department Uses AB 481 Equipment to Help the Community

- The Escondido Police Department utilizes military equipment in its mission to protect the community through exceptional police service.
- This equipment is acquired with careful consideration and intention.
- It is acquired and authorized when there is no reasonable alternative that can achieve officer and civilian safety.
- AB 481 provides important public information and input regarding how military equipment is funded, acquired, and used.

### Escondido Police Department (EPD) Military Equipment includes:

EPD has the following items:	EPD does <b><u>NOT</u></b> have the following items
<ul style="list-style-type: none"><li>• Drones</li><li>• Robotic Platform</li><li>• Incident Command Vehicles</li><li>• Armored Personnel Carriers</li><li>• Breaching Equipment</li><li>• Patrol and SWAT Rifles</li><li>• Flashbangs</li><li>• Long Range Acoustic Device</li><li>• 40mm Launchers</li></ul>	<ul style="list-style-type: none"><li>• Mine-resistant ambush-protected vehicles (MRAP Vehicles)</li><li>• Humvees</li><li>• Tracked armored vehicles</li><li>• Weaponized aircraft, vessels, or vehicles</li><li>• Firearms or ammunition of .50 caliber or greater</li><li>• Firearm designed to launch explosive projectiles</li></ul>

### Escondido Police Department's Commitment to the Community

All military equipment will be used in accordance with general and, when appropriate specific, Department Instructions. The Department Instruction on Use of Force provides overarching guidance and specific orders for all Department police officers including:

Law enforcement officers shall be guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public. When officers are called upon to detain or arrest a suspect who is uncooperative or actively resisting, may attempt to flee, poses a danger to others, or poses a danger to themselves, they should consider tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation safely. The highest priority of California law enforcement is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone. Every person has a right to be free from excessive use of force by officers acting under color of law.



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The acquisition and use of military equipment is intended to avoid the use of force whenever possible and when authorized, to use the least amount of force necessary.

Your action today, to adopt No. 2022-07 will allow the Police Department to continue using this vital equipment in its mission to protect the community.

### **ORDINANCES**

- A. Ordinance No. 2022-07
- B. Ordinance No. 2022-07 Exhibit "A" Escondido Police Department Instruction 1.55, Military Equipment Use policy