

September 19, 2022

Dear Attorney General Bonta,

We write as organizations that have followed closely the implementation of Assembly Bill 481 on militarized equipment used by law enforcement agencies. Our observations lead us to believe AB 481 is not being implemented as intended. We request that you issue guidance on compliance with the law and meet with us on these issues. Specifically, we urge you to address the failure of some law enforcement agencies to post use policies for military equipment they possess; the exclusion of assault rifles from the military equipment inventories and use policies of a small number of agencies; and the importance of preparing clear and complete annual reports on the use of military equipment.

Failure of some law enforcement agencies to post use policies for military equipment they possess

AB 481 requires law enforcement agencies that have acquired military equipment, as defined in Sec. 7070 of the California Government Code, to publish an inventory and proposed use policies for such equipment by May 1, 2022. Such publication by city and county agencies sets in motion a review process to be completed within 180 days by governing bodies.

However, from a review of law enforcement agency web sites, it appears that some agencies have, more than three months after the deadline, still not published proposed use policies for military equipment that they possess. These include sheriff's offices in Los Angeles and San Francisco counties, and police departments in Vallejo, Bakersfield, and others¹. Many more jurisdictions have excluded components of use policies required by AB 481, such as sections on authorized uses for each type of equipment or identification of an independent oversight entity.

Exclusion of assault rifles from the military equipment inventories and use policies of some agencies

Assault rifles, often known as patrol rifles, are among the most intimidating types of equipment deployed by law enforcement. However, different interpretations of a provision of AB 481 regarding assault rifles owned by law enforcement agencies have led to inconsistent

¹ A partial sampling of agencies that have not posted a Military Equipment Use Policy on their website as of September 18 2022:

Police Departments: Bakersfield, Coachella, Inglewood, Vallejo

County Sheriff Offices: Alpine, Del Norte, Humboldt, Los Angeles, Modoc, Plumas, San Francisco, Siskiyou, Tehama, Trinity, Tuolumne

State agencies: California Highway Patrol, California Office of Emergency Services

Note: when a County Sheriff Office does not have a Military Equipment Use Policy posted on their website, the corresponding County DA office often also does not

implementation by agencies across the state. Section 7070(c) of the legislation defines military equipment subject to the law's requirements as including:

(10) 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.

Despite the explicit inclusion of assault weapons, some agencies have interpreted the exception clause to apply to assault weapons that may be considered "standard issue service weapons" (a phrase that is not defined in the statute). These agencies include police departments in San Francisco, Pasadena and Palo Alto, and sheriff's offices in Kings, Imperial, Madera and Sonoma counties. Some agencies, such as Capitola Police Department, stated that assault rifles are standard issue but were nonetheless included in military equipment policy, while others, such as in Santa Cruz and Emeryville, added use policies for their assault rifles after community members called for inclusion.

In the past, your office has issued guidance to law enforcement agencies regarding new laws that require their compliance (for example, Information Bulletin 2020-DLE-10). We ask that you again issue guidance to law enforcement agencies, clarifying the intent of AB 481 to create transparency and policies for the deployment and use of patrol rifles that are approved by governing bodies.

Importance of preparing clear and complete annual reports on the use of military equipment

Section 7072 of AB 481 requires that each law enforcement agency publish an annual report summarizing how each type of military equipment approved for use was used in the preceding year. The first of these will be published in 2023. The reports must include a summary of uses, purposes of use, concerns and complaints received, audits, and total annual costs, including "acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided" in the succeeding year.

Given that many agencies have submitted incomplete use policies for military equipment, guidance from your office for the creation of annual reports, including procedures to document use, would be helpful to agencies to ensure adequate reporting. We note that AB 481 does not reference "use of force" - a category of events that many agencies already document - but "use", and includes equipment not directly involved in uses of force. This strongly suggests that the legislature intended for agencies to document *deployments* of the equipment.

In light of these issues, we request:

- That you issue guidance to law enforcement agencies and to governing bodies in California regarding the requirements of AB 481, including the publication of complete use policies for military equipment, the importance of including assault weapons in military equipment policies, and recommendations for documentation of deployment of military equipment. This could be a Division of Law Enforcement Information Bulletin.

- A meeting with you and your staff at your earliest convenience to discuss these issues and actions to take in response.

We look forward to working with you on these critical issues.

Sincerely,

American Civil Liberties Union Foundation of Northern California
American Civil Liberties Union, Santa Cruz chapter
American Friends Service Committee
Amnesty International Sacramento Group
Ashby Village Elder Action Committee
Asian Pacific Environmental Network
Bend the Arc: Jewish Action California
Berkeley Friends Meeting/Racial Justice Action Team
Berkeley Racial Justice Criminal Reform Coaiition
California Coalition for Women Prisoners
California Families United For4 Justice
Californians United for a Responsible Budget (CURB)
Coalition on Homelessness
Communities United for Restorative Youth Justice (CURYJ)
Culver City Action Network
Decarcerate Sacramento
Drug Policy Alliance
East Bay For Everyone
Ella Baker Center for Human Rights
Initiate Justice
Interfaith Movement for Human Integrity
Jewish Voice for Peace - Bay Area Chapter
Lawyers' Committee For Civil Rights of the San Francisco Bay Area
Livermore Indivisible
Oakland Privacy
Oakland Rising
Pacifica Peace People
Pacifica Social Justice
Public Health Justice Collective
Racism and Criminal Justice Reform group (RCJR)
Religious Action Center - CA
Restore Oakland
San Francisco Public Defender's Office
SF Gray Panthers
Siegel, Yee, Brunner & Mehta
University Lutheran Chapel of Berkeley
Wellstone Democratic Renewal Club

Women Against Gun Violence

Women's International League for Peace and Freedom (East Bay & San Francisco branches)