



SUNNYVALE DEPARTMENT OF PUBLIC SAFETY  
ANNUAL MILITARY  
EQUIPMENT REPORT  
January – December, 2022

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## INTRODUCTION

On September 30, 2021, the Governor of the State of California approved Assembly Bill 481 (codified as Chapter 12.8 of the California Government Code) requiring law enforcement agencies such as the Sunnyvale Department of Public Safety to have a military use policy approved by the City Council prior to requesting, seeking funding, acquiring or using military equipment. Assembly Bill 481 allows the governing body to approve the policy within its jurisdiction only if it determines that the military equipment meets specified standards.

On April 5, 2022, the City of Sunnyvale City Council approved Ordinance NO. 3191-22 approving Sunnyvale Department of Public Safety Policy #705: Military Equipment Funding, Acquisition, and Use. Annually, the Sunnyvale Department of Public Safety must prepare a report in compliance with Assembly Bill 481. Subsequently, the City Council must then review the Ordinance, Policy and Annual Report, and determine whether the Department's use of military equipment in the past year complied with the Policy, and whether to continue the Ordinance and Policy, take action (by ordinance) to modify the Policy or repeal the Ordinance.

As set forth in the Policy, the Sunnyvale Department of Public Safety retains and employs limited military equipment to safeguard its community. SDPS officers, certified instructional staff, and specialized units receive training throughout the year on the use of military equipment approved under the Policy.

This Annual Report outlines the Sunnyvale Department of Public Safety's military equipment inventory and usage, community complaints over use of military equipment, and internal audits from January 1, 2022 through December 31, 2022. The Department will submit its Military Equipment Annual Report to City Council after December 31st of every year in compliance with AB 481.



## DEFINITIONS

Definitions of Military Equipment established by California Government Code §7070: (SDPS utilizes a limited number of the resources listed below)

Military equipment includes but is not limited to the following types of equipment:

- 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 or 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 weapons
- 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



## **SUNNYVALE DPS – AB 481**

### **Armored Personnel Vehicle ARV**

#### **1. Project Background and Description/Expected Lifespan**

The Sunnyvale Department of Public Safety (SDPS) Armored Personnel Rescue Vehicle is an armored vehicle that is used for special operations that pose a high safety risk to officers or the public. The vehicle provides ballistic protection for the officers during dangerous law enforcement operations. The vehicle is also used to assist with the rescue and protection of civilians in harm's way during terrorist threats, hostage incidents, active shooter events, or other life-threatening situations.

The vehicle is designed to provide protection from a variety of small arms fire. The vehicle was built on the 2007 Ford F-550 Super Duty truck frame. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The vehicle has an expected lifespan of approximately 20 years.

#### **2. Purposes and Use**

To be used in response to critical incidents to enhance officer and community safety and assist in resolving critical incidents. The use of the Armed Personnel Vehicle shall only be authorized by a supervisor. Sunnyvale DPS personnel are trained on the use of the Rescue Vehicle to help protect officers and civilians during a life-threatening emergency.

#### **3. Fiscal Impact**

The Sunnyvale Armed Personnel Vehicle was purchased in 2006 using grant funding. The vehicle cost approximately \$292,000. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average cost to the City of Sunnyvale to maintain and repair the vehicle is \$4,000.

#### **4. Rules**

The Sunnyvale ARV is currently assigned to the Bureau of Police Services and is housed at Sunnyvale DPS headquarters. The vehicle is operated by trained Sunnyvale DPS personnel. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The Sunnyvale ARV is available to respond to any large-scale event in Sunnyvale or the greater Bay Area. The vehicle can be requested by any on-scene Incident Commander (supervisor) to help manage an event.

The following Sunnyvale DPS Lexipol Policies govern the deployment of the ARV:

### SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

### SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

#### **5. Training**

The Sunnyvale ARV is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

#### **6. Compliance**

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

#### **7. Complaints or Concerns**

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual

[:https://sunnyvale.ca.gov/government/safety/accountability.htm](https://sunnyvale.ca.gov/government/safety/accountability.htm)



# SUNNYVALE DPS – AB 481

## Energetic Breaching Program

### 1. Project Background and Description/Expected Lifespan

The primary use of energetic breaching program is used by the Sunnyvale DPS SWAT team to provide an immediate, efficient, an unexpected strategic entry during an emergency operation. This calculated and surprise entry is intended to catch the suspect(s) off guard, permit swift ingress, and allow SWAT personnel to quickly locate and assess potential threats concealed in enclosed structures. Effective breaching techniques allows Sunnyvale SWAT personnel immediate entry with minimal risk to themselves, the victims and the suspects.

Energetic breaching is a non-lethal force option. Sunnyvale SWAT personnel assigned as breachers are tasked with the objective to affect an entry shall consider the safety of innocent persons inside the stronghold, the safety of the suspect, and the safety of the tactical officers conducting the operation.

Energetic Breaching is used when there are no other reasonable alternatives to rapidly breach a location. Energetic Breaching is only used when time is of the essence in order to preserve life. Without these items, peace officers may not be able gain access to a location in a safe and timely manner to engage in necessary police operations.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The energetic breaching equipment utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

### 2. Purposes and Use

To safely make entry into a stronghold during an emergency situation. Energetic breaching will calculate the minimum amount of material needed to gain entry into a designated target without harming occupants inside the stronghold or the officers involved in the entry.

### 3. Fiscal Impact

The initial energetic breaching program was initiated in 2014. The startup costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Detonation Cord:	Price: \$1.00 a foot	Qty: 2000 feet	Total: \$ 2,000
Detonators:	Price: \$20.00	Qty: 319	Total: \$ 6,380
Training of Personnel:	Approximately \$4,000 to train two officers		
	Total approximate costs for the program: \$ 12,380		

The estimated annual costs to maintain, replenish, and service the energetic breaching program equipment is approximately:

Detonation Cord: Price: \$1.00 a foot Qty: 1000 feet Total: \$ 1,000

Detonators: Price: \$20.00 Qty: 100 Total: \$ 2,000

Training of Personnel: Approximately \$4,000 to train two officers

Total approximate annual costs for the program: \$ 7,000

#### 4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

The Sunnyvale DPS SWAT energetic breaching team will be composed of two energetic breachers. The team will have an energetic breaching team leader and a primary energetic breacher. In order to maintain proficiency and to ensure the minimum number of breachers are always available, two members of the SWAT team will be assigned as assistant breachers

An OSHA blaster's license is required for energetic breaching operations, both training and mission specific. A licensed blaster has to be present at all energetic breaching operations. It shall be the intent of the SDPS SWAT team to constantly have two personnel trained and licensed with an OSHA blaster's license.

A U.S. Department of Justice, Alcohol Tobacco Firearms (ATF) Energetic License or Limited Permit does not need to be applied for every year. As a government Law Enforcement agency, SDPS is exempt and does not need to possess an ATF permit to purchase or use energetics for breaching operations. All energetic purchases, materials used during training and operations, all need to be recorded and records kept for ATF inspection. A running total of energetic materials stored at SDPS needs to be logged and available for ATF audit at all times.

The Sunnyvale Fire Marshall needs to approve storage containers, storage site and approve energetic material inventory.

#### Storage

The U.S. DOJ Department of Alcohol, Tobacco, and Firearms (ATF) regulate and license the purchase, storage, and use of energetic materials. Energetic breaching personnel will store energetics in accordance with ATF-Energetics Law and Regulations (ATF P 5400.7, Subpart K-Storage).

The energetics will be stored in ATF approved magazines, at a specific site designated by the Sunnyvale Fire Marshall. Energetic breaching personnel will maintain a magazine log to record amounts of energetic materials received and stored, amounts used in training and missions,



along with running totals of each type of energetic material. The log will include specific dates and will be posted next to each storage magazine.

## 5. Training

Given the complex nature and variety of skills that must be mastered and maintained, the high level of performance required, and perishable nature of these skills, each energetic breacher must maintain a minimum standard of ten hours of energetic training every month to include:

1. Work with detonators and firing assemblies
2. Construction and detonation of breaching charges
3. Review of energetic composition theories and properties
4. Review of all related calculations and formulas needed for the development of breaching plans
5. Review of all processed objective data
6. Review and debrief of other unit operations and research information

There should also be at least ten additional hours every year devoted to full mission profile training. This should include all members of the SWAT team as required.

All energetic breachers will attend an accredited "Basic Explosive Breaching" course taught by the Los Angeles Sheriff's Office (LASD). The course consists of a minimum of 40 hours. The course of instruction must include all areas of energetic science, blast pressure, blasting regulations and compliance requirements, documentation and charge configurations as required of a contemporary energetic breaching program.

Prior to performing an operational breach of any kind, all energetic breachers will be required to participate in a minimum of 25 documented training "shots" with the unit and at least one training breach utilizing the entire SWAT team.

The energetic breaching unit will maintain a breaching log which documents every energetic breach, training or operational. The designated energetic breacher of each entry point shall be responsible for completing a breaching report in a timely manner whenever energetic breaching charges are used.

The energetic breaching team leader works directly with the other SWAT team leaders during critical incidents and training events. He/she is responsible for:

1. The readiness of energetic breaching equipment and personnel.
2. Maintaining all training records and operational documents.
3. Evaluating all tactical information and working with the SWAT team leader to develop, prepare, and execute the entry plan utilizing the energetic breaching team.
4. Maintaining data of operation methods and crisis site information for future reference and use.

5. Briefing command staff on the team's breaching capabilities
6. Continually evaluating the SWAT team's mission and assignments to ensure the energetic breaching team is in a constant state of readiness.

### ***Energetic Breach After-Action Report***

Following all tactical team operations and significant training events, a written after-action report shall be prepared by the energetic breaching team leader and submitted to the SWAT team leader.

The critique shall include:

A description of crime scene information availability, accuracy, collection methods, and timing of dissemination.

A description of the planning and preparation phase.

A description of the execution of the operation.

A description of the team's performance.

Documentation of the objective layout and construction in writing, photographs, and video if possible.

This report should identify deficiencies and corrective actions as necessary for each phase and a recommendations section for actions needed to eliminate deficiencies in the future.

These reports shall be maintained indefinitely for future reference and historical data.

### **6. Compliance**

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct energetic breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Less-Lethal Launcher

### 1. Project Background and Description/Expected Lifespan

The less-lethal launcher is a launching platform that uses a 37mm or 40mm rubber "baton" generally at distances around 10-20 yards. It is designed to be used on extremities such as arms or legs, similar to a handheld wooden baton, and is effective in suppressing events or incidents where the use of lethal force is not an appropriate response. Public Safety currently deploys the less-lethal launcher in patrol vehicles and reserves the 40mm launcher for SWAT operations.

The less-lethal launcher expands the department's capability to responding to situations where officers face non-lethal situations where subjects are not complying with orders/directions. The less-lethal launcher can potentially prevent a deadly force encounter.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The less-lethal launchers utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

### 2. Purposes and Use

The less-lethal launcher is used as a non-lethal option to offer law enforcement officers to deliver a less than lethal projectile to a subject in a potentially violent encounter. The less-lethal launcher system is a de-escalation tool used to avoid further injuries or lethal options on a subject.

### 3. Fiscal Impact

The Sunnyvale Department of Public Safety currently has two models of the less-lethal launcher: the 37mm SAGE Deuce and the 40mm Penn Arms launcher.

SAGE Deuce 37mm Patrol Basic Launcher (Patrol Vehicles):	Price: \$ 3,390	Qty: 6	Total: \$20,340
SAGE Deuce 37mm launcher munitions:	Price: \$ 3,980	Qty: 190	
Penn Arms 40mm Launcher (SWAT)	Price: \$ 2,348	Qty: 2	Total: \$ 4,696
Penn Arms 40mm launcher munitions:	Price: \$ 1,466	Qty: 70	

Total approximate initial costs for one less-lethal system: \$ 11,184  
The replacement cost for this program is \$25,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the less lethal launchers. These costs vary depending on needs.

#### **4. Rules**

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the SAGE launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of less-lethal launchers:

##### **SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:**

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

##### **SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:**

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- e. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

##### **SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:**

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

### **5. Training**

Officers receive training on the proper use of the less-lethal launching systems by current manufacturer certified instructors. The training includes when the less-lethal launchers can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate

proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

#### **6. Compliance**

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Mobile Emergency Operations Center (MEOC)

### **1. Project Background and Description/Expected Lifespan**

In 2009, the Sunnyvale Department of Public Safety (DPS) received grant funding to design and procure a mobile platform to deliver interoperable command/control, communication and data management assets to an operational scene to support all-risk operations. This Mobile Emergency Operations Center (MEOC) is available for deployment to numerous jurisdictions within the Bay Area region. The vehicle helps strengthen information sharing, collaboration, and command and control, between numerous agencies during large scale emergencies. Additionally, the design of the vehicle complements mobile command centers and tactical assets being used by the Cities of Palo Alto and Santa Clara.

The MEOC is an unarmored vehicle similar to a large commercial recreational vehicle. The MEOC also serves as an emergency dispatch center in the event of a catastrophic failure of the dispatch center housed within the DPS building.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The MEOC utilized by the Sunnyvale Department of Public Safety has no offensive capabilities.

The Sunnyvale DPS MEOC has an expected lifespan of approximately 20 years.

### **2. Purposes and Use**

The Sunnyvale Department of Public Safety (DPS) is a unique agency in the Bay Area. Sunnyvale DPS is the only fully integrated Police, Fire, and EMS provider in the region. The MEOC provides seamless interoperable communications, data management, and command/control abilities during an emergency.

### **3. Fiscal Impact**

The initial cost of the MEOC in 2012 was \$315,694 (RTC 11-117) which was paid through grant funding. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. These costs vary depending on needs.

### **4. Rules**

The MEOC is currently assigned to the Bureau of Fire Services and is housed at Sunnyvale Fire Station 5. The vehicle requires a class C driver's license with a firefighter endorsement to operate. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

#### SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

#### SUNNYVALE DPS LEXIPOL POLICY 308.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

### **5. Training**

The MEOC is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

Our procedural guidelines for training are dictated in the Sunnyvale DPS Policy Manual:

#### SUNNYVALE DPS LEXIPOL POLICY 501.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).



All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

#### SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

#### SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

Provide the DMV with proof of successful completion of either the Fire Apparatus Driver/Operator 1A course taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets all of the requirements in Vehicle Code § 12804.11. This proof should be in the form of a letter from the Director of Public Safety or the authorized designee.

Pass the appropriate written firefighter examination(s) that have been developed by the DMV with the cooperation of the Office of the State Fire Marshal.

Submit a report of medical examination on a form approved by the DMV.

A member is not required to obtain and maintain a firefighter endorsement if the member is operating the firefighting equipment for training purposes, during a non-emergency or while under the direct supervision of a member who is properly licensed to operate the equipment and is authorized by the Department to provide training (Vehicle Code § 12804.11).

## **6. Compliance**

### **SUNNYVALE DPS LEXIPOL POLICY 501.4 TRAINING LIEUTENANT RESPONSIBILITIES**

It shall be the responsibility of the Fire Training Lieutenant to ensure that any member required to drive fire apparatus as a part of his/her normal duties has received the mandated training. The Fire Training Lieutenant shall coordinate with the department member appointed to monitor driver license status to ensure members have valid driver licenses with the proper endorsements, in accordance with the Driver License Requirements Policy.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Noise Flash Diversionary Device (NFDD)

### 1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team has the ability to deploy a diversionary device known as a Noise Flash Diversionary Device (NFDD). A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. Only specially trained SWAT personnel are allowed to deploy NFDD devices. These devices are used during high-risk SWAT operations where the subject poses a significant threat to officers or the public.

The NFDD is considered a non-lethal use of force option. These devices can often lead to a safer resolution and allow officers to take a subject into custody without force.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The NFDDs utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

### 2. Purposes and Use

A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. The NFDD is used as diversion/distraction device during dangerous situations involving potentially violent subjects. The NFDD is only used by specially trained SWAT team members.

### 3. Fiscal Impact/Inventory

CTS NFDD model 7290M	Quantity: 25	Total: \$2,447
CTS NFDD model 7290-2	Quantity: 2	Total: \$1,725
CTS NFDD model 7290-9	Quantity: 27	Total: \$4,022
CTS NFDD model 7290-50	Quantity: 18	Total: \$756
CTS NFDD model 7290-1	Quantity: 18	Total: \$756
CTS NFDD model 7290MT	Quantity: 35	Total: \$2,295

Total approximate costs for the program: \$ 12,000

The estimated annual costs to maintain and replenish supply used during operations or training is approximately: \$3,000

### 4. Rules

The Sunnyvale Fire Marshall needs to approve storage containers and storage sites used by SDPS.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

### SUNNYVALE DPS LEXIPOL POLICY 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### SUNNYVALE DPS LEXIPOL POLICY 300.3.1 USE OF FORCE TO AFFECT AN ARREST

Any peace officer may use reasonable force to affect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

#### **5. Training**

All Sunnyvale DPS SWAT team members are trained in the proper use of the NFDDs during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in yearly re-certification on the use of the NFDDs.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize NFDDs in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police

Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

**6. Compliance**

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use NFDDs will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.



# SUNNYVALE DPS – AB 481 Pepper Projectile Systems

## 1. Project Background and Description/Expected Lifespan

The Pepper Projectile System is not a firearm, but rather a non-lethal system that uses high pressure air to deliver PAVA (Pelargonic Acid Vanillylamide) powder projectiles from a safe distance. PAVA is based on one of the hottest of the six capsaicinoids found in pepper plants. The munitions contain only safe, pure, nonoil-based PAVA and are non-flammable. The system was based off paintball launcher systems. The Pepper Projectile System has an expected lifespan of 10 years.

The Pepper Projectile System munition (inert): is a 68-caliber plastic (breakable) sphere which encapsulates a scented powder that is not a chemical agent. The inert munition is used for training purposes and has an expected lifespan of 3 years.

The Pepper Projectile System munition: is a 68-caliber plastic (breakable) sphere which encapsulates a 2% chemical agent (PAVA) payload. The munition is used as a non-lethal weapon designed de-escalate a potentially violent encounter. The munition has an expected lifespan of 3 years.

## 2. Purposes and Use

The Pepper Projectile System and munitions are used as a non-lethal option to offer law enforcement officers the chance to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. The proper use of the Pepper Projectile System is a de-escalation tool used to avoid further injuries or lethal options on a subject.

## 3. Fiscal Impact

The initial Pepper Projectile System program was initiated in 2005. The costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Pepper Projectile System FTC Basic Launcher (Patrol): Price: \$591 Qty: 6 Total: \$3,546

Pepper Projectile System Munitions (Inert): Price: \$375 per case Qty: 2,200 Total: \$1,938

Pepper Projectile System Munitions: Price: \$375 per case Qty: 2,600 Total: \$6,832

Miscellaneous (backpack, munition holder, air tanks, etc.) Total: \$6,000

Total approximate initial costs for the Pepper Projectile System: \$ 18,316

#### **4. Rules**

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the Pepper Projectile System launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of Pepper Projectile launchers:

##### **SUNNYVALE DPS LEXIPOL POLICY 302.7.2 Pepper Projectile Systems:**

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Only Officers who have completed the Department Pepper Projectile System/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

##### **SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.



SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. The suspect has made credible threats to harm him/herself or others.
- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

### **5. Training**

Officers receive training on the proper use of the Pepper Projectile System systems by current manufacturer certified instructors. The training includes when the Pepper Projectile System can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

#### **6. Compliance**

Per Sunnyvale DPS Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices (Pepper Projectile Systems) will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## DPS SWAT Rifles

### 1. Project Background and Description/Expected Lifespan

The Sunnyvale DPS SWAT Daniel Defense MK rifles are smaller more compact rifles that are only used by specially trained SWAT officers assigned to the Sunnyvale SWAT team. Each member of the Sunnyvale DPS SWAT team attends monthly training that requires the practice firing of their rifles. This monthly training ensures that the SWAT team will be ready to handle a variety of high-risk situations like hostage-rescue situations, active shooter scenarios, high-risk search warrants, and armed barricaded suspects.

The Daniel Defense MK rifles have a thicker barrel that can better endure the large amount of ammunition fired during years of training. The Daniel Defense MK rifle is tooled to accept 5.56 mm NATO ammunition and the .223 cal. standard issue rifle ammunition used by patrol officers. Because the rifle is manufactured to endure both types of ammunition, the rifle has a longer lifespan and provides a more cost-effective solution to the Sunnyvale SWAT team. The Daniel Defense MK rifles are more reliable and durable than the standard issue rifles assigned to the Patrol Division. The Sunnyvale SWAT team only uses the standard .223 cal. ammunition in the Daniel Defense MK rifles.

### 2. Purposes and Use

The Daniel Defense MK rifle is only used by specially trained Sunnyvale SWAT team personnel. The rifle is manufactured for SWAT teams and is extremely durable and reliable.

### 3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Daniel Defense MK:	Price: \$2,963	Qty: 21	Total: \$62,223
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\*Note: .223 cal. ammunition is used as standard issued ammunition for patrol rifles.

Total approximate costs for the program: \$ 62,223

#### **4. Rules**

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

##### **SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS**

**Deadly force** - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

##### **SUNNYVALE DPS LEXIPOL POLICY 300.5 DEADLY FORCE APPLICATIONS**

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose

an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

#### **SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS**

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### **SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE**

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

#### SUNNYVALE DPS LEXIPOL POLICY 300.8 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
  1. Type of force;
  2. Reason for the force;
  3. Extent of injury to the suspect and action taken to provide aid;
  4. Pertinent information deemed important by the officer.

- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### SUNNYVALE DPS LEXIPOL POLICY 300.7 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

#### SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### **5. Training**

Only SWAT Officers who have completed the firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

#### SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.



#### SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.
- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

#### **6. Compliance**

#### SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

#### SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
  1. Unauthorized range make-up
  2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Sunnyvale DPS SWAT Sniper Rifle

### 1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is a highly trained unit formed to respond to violent tactical situations that pose a high-risk to civilian and officer safety. The SDPS SWAT sniper element deploys with the SDPS SWAT team with precision rifles and has the ability to engage and stop an armed violent subject at a safe distance.

Officers assigned to the Sunnyvale DPS SWAT Sniper team are required to pass rigorous testing and are required to attend a CA POST certified 40-hour Sniper School. These officers are in full uniform and shall carry all safety equipment on their person, including but not limited to less lethal and lethal weapon systems. To protect lives, the Sunnyvale SWAT team shall have a sniper team in place during pre-planned SWAT operations.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The rifles utilized by the Sunnyvale DPS SWAT team has an expected lifespan of approximately 10 years.

### 2. Purposes and Use

The purpose of the sniper rifle is to provide specially trained Sunnyvale DPS SWAT officers with the necessary capabilities of engaging threats from a safe distance. All Sunnyvale DPS SWAT officers utilizing these systems are specifically trained on proper use, functionality, maintenance, and shall qualify bi-yearly in accordance with Sunnyvale Lexipol policy.

### 3. Fiscal Impact

The department sniper team program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Accuracy International:	Price: \$10,000	Qty: 4	Total: \$40,000
JP Enterprise:	Price: \$6,500	Qty: 2	Total: \$13,000
Ammunition (.308 cal.)	Qty: Utilize approx. 4000 rounds per year		Total: \$5,200

Total approximate costs for the program: \$58,200

#### **4. Rules**

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code 7286).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

##### **SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS**

**Deadly force** - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

##### **SUNNYVALE DPS LEXIPOL POLICY 300.5 DEADLY FORCE APPLICATIONS**

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- b. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

#### **SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS**

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

#### **SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE**

Except during training or recreational use, any officer who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

In all other cases, written reports shall be made as follows:

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- b. If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

#### SUNNYVALE DPS LEXIPOL POLICY 300.8 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Determine if there is any indication that the subject may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
  - 1. Type of force;
  - 2. Reason for the force;
  - 3. Extent of injury to the suspect and action taken to provide aid;
  - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### *SUNNYVALE DPS LEXIPOL POLICY 300.7 MEDICAL CONSIDERATION*

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

#### *SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS*

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### **5. Training**

Only SWAT operators who have completed a CA POST certified 40 hours Sniper School and meet the Department's required qualification standards will be authorized to carry the sniper rifle weapon systems.

#### SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- f. Each SWAT member shall pass a physical fitness test twice each year.
- g. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- h. Those members who are on PTO or are on a protected leave status, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed the test for that test period.
- i. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- j. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days.



Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

## **6. Compliance**

### **SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS**

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

### **SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS**

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

#### **SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION**

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
  1. Unauthorized range make-up
  2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Reconnaissance Robots

### 1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is tasked with solving a variety of critical incidents that are so hazardous, complex, or unusual that they exceed the capabilities of patrol officers. The critical incidents include, but are not limited to, hostage taking, barricaded subjects, terrorist attacks, warrant services, and other high-risk incidents.

Due to the threat level of such incidents, any tool the SWAT team can utilize to come to a peaceful resolution is vital to the overall safety of the public, suspects, and officers. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The two reconnaissance robots utilized by the Sunnyvale Department of Public Safety have no offensive capabilities. They are used for information gathering only. The robots have an expected lifespan of approximately 5 years.

### 2. Purposes and Use

In police tactical operations a robot can provide real-time reconnaissance during operations involving high-risk warrants, barricaded suspects and hostage rescues. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

### 3. Fiscal Impact

The costs of equipment have changed over the years due to the rapidly developing technology. All robots were purchased using grant funding.

The Sunnyvale Department of Public Safety currently has two reconnaissance robots:

- 1) 2014 Avatar III: This medium sized robot, weighing approximately 50 pounds, is utilized by the Sunnyvale SWAT team and the Sunnyvale Fire HAZMAT team to enter hazardous locations before humans to assess possible threats. The robot has several cameras and is remotely controlled.
- 2) Recon Scout Robot: The recon scout robot is a small robot designed to fit into an operative's pocket. It can be quickly and stealthily deployed by tossing it into a location

and using the remote to maneuver it around. It can visually clear small or large spaces prior to an operative clearing it.

2014 Avatar III: Price: \$25000 Qty: 1 Total: \$25,000

\*The 2014 Avatar III is on the equipment schedule for replacement in 2024. DPS is exploring the replacement of the Avatar III with two smaller more capable robots. If two smaller robots are authorized in 2024 the cost will be \$50,000.\*

RSK-TB-2A Throwbot 2 Price: \$13,145 Qty: 1  
Price: \$13,920 Qty: 1 Total: \$27,065

The City of Sunnyvale currently pays for routine maintenance and repairs made to the robots. These costs vary depending on needs.

#### **4. Rules**

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

##### SUNNYVALE DPS LEXIPOL POLICY 406.2.2 OPERATIONAL PROCEDURES

Operational procedures should be generally patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SWAT/CNT/TMT members and will outline tactical and officer safety issues, they are not included within this policy. Operational procedures should include, at minimum, the following:

1. Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
  - a. All SWAT team members should have an understanding of operational planning.
  - b. SWAT team training should consider planning for both spontaneous and planned events.
  - c. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
2. Designated personnel responsible for developing an operational / medical plan prior to, and/or during TMT operations (time permitting).
  - a. All TMT members should have an understanding of operational/medical planning.
  - b. TMT training should consider planning for both spontaneous and planned events.
3. Mission briefings conducted prior to an operation, unless circumstances require immediate deployment. On scene mission briefs should be conducted as soon as practical in immediate deployment situations.
  - a. When possible, briefings should include the specialized units and supporting resources.
4. Protocols for a sustained operation which may include relief, rotation of personnel and augmentation of resources.

5. A generic checklist, to be worked through during pre planned events, prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.
6. The appropriate role for a trained negotiator.
7. A standard method of determining whether a warrant should be regarded as high-risk.
8. A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
9. Post incident scene management including:
  - a. Documentation of the incident.
  - b. Transition to investigations and/or other units.
  - c. Debriefing after deployment of the SWAT team.
    1. After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
    2. When appropriate, debriefing should include specialized units and resources.
    3. In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
    4. Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
10. Standardization of equipment deployed.

#### SUNNYVALE DPS LEXIPOL POLICY 406.9.2 APPROPRIATE SITUATIONS FOR USE OF SWAT/CNT/TMT UNIT

The following are examples of incidents which may result in the activation of the SWAT/CNT/TMT Unit:

- a. Barricaded suspects who refuse an order to surrender.
- b. Incidents where hostages are taken.
- c. Cases of suicide threats.
- d. Arrests of dangerous persons.
- e. Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

#### SUNNYVALE DPS LEXIPOL POLICY 406.9.5 MOBILIZATION OF SWAT/CNT/TMT UNIT

The On-Scene supervisor shall make a request to a Lieutenant for the SWAT/CNT Unit. The Lieutenant shall then notify the SWAT/CNT Commander. If unavailable, a team supervisor shall be

notified. A current mobilization list shall be maintained by Communications Unit staff. The Lieutenant will then notify the Police Services Captain as soon as practical.

The Lieutenant or designee should provide the SWAT Commander with as much of the following information as available at the time:

- a. The number of suspects, known weapons and resources.
- b. If the suspect is in control of hostages.
- c. If the suspect is barricaded.
- d. The type of crime involved.
- e. If the suspect has threatened or attempted suicide.
- f. The location of the command post and a safe approach to it.
- g. The extent of any perimeter and the number of officers involved.
- h. Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The SWAT Commander, Captain or supervisor shall then initiate the SWAT call-out procedures. A current mobilization list shall be maintained by Communications Unit staff. An immediate need request for the SWAT team will trigger a call out of the SWAT/CNT/TMT Unit.

## **5. Training**

All Sunnyvale DPS SWAT team members are trained on tactical operations and the use of robots for intelligence gathering during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in monthly SWAT scenario based training .

### **SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING**

SWAT team operators and SWAT supervisors should not be deployed until successful completion of the POST certified Basic SWAT Course or its equivalent.

- a. To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

### **SUNNYVALE DPS LEXIPOL POLICY 406.3.2 UPDATED TRAINING**

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

### **SUNNYVALE DPS LEXIPOL POLICY 406.3.3 SUPERVISION AND MANAGEMENT TRAINING**

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST certified SWAT commander or tactical commander course, or its equivalent.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

#### SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

### **6. Compliance**

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

#### SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.



# SUNNYVALE DPS – AB 481

## Tear Gas

### Overview

#### 1. Project Background and Description/Expected Lifespan

Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Sunnyvale Department of Public Safety (SDPS) as a non-lethal tool to disperse unlawful groups and on barricaded suspects. SDPS uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). Both CS and OC are not actual gas but are micro-pulverized particles. These particles cause irritation and/or inflammation and are non-lethal.

CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS.

OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes). Decontamination for both CS and OC is fresh air and cool, clean water.

The chemical agent munitions are delivered by throwing a canister or launching a canister using a specially modified shotgun. The specially modified shotgun is capable of launching a gas canister into a second or third floor window. The specially modified shotgun is only used by trained SDPS SWAT personnel.

The multiple types of munitions listed below, which are possessed and used by SDPS, are different models of cannisters which each disperse different gram weights of chemical agent “tear gas” and allow for different deployment methods (different devices or tools) based upon the circumstances of the event requiring use. Having the choice of multiple munitions also allows officers to control the amount (in grams) of chemical agent used during a deployment.

Our inventory of chemical agent munitions is as follows:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 26
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 26
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 10
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 11
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 95
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2000)



This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The chemical agents utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

## **2. Purposes and Use**

Chemical agent “tear gas” munitions are used as a non-lethal option in a potentially violent encounter during rioting crowds or barricaded suspects. The proper use of chemical agents provides for a de-escalation tool used to avoid further injuries or to avoid using lethal options on a suspect.

## **3. Fiscal Impact**

The Sunnyvale DPS SWAT team has three (3) personnel who are qualified by the California Association of Tactical Officer’s / CA-POST Chemical Agent Instructor program in San Diego, California. Based on the instruction received and best-practices learned from the San Diego County Sheriff’s Office, the Sunnyvale DPS SWAT team purchased the following equipment:

The list below are the approximate unit prices for the associated munitions in our inventory:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 26 (\$990)
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16 (\$576)
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 26 (\$624)
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 10 (\$260)
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 11 (\$387.86)
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 95 (\$4,275)
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2,000)

The estimated annual costs to maintain and replenish the chemical agent “tear gas” inventory is approximately \$1,500. On an approximate five (5) year cycle, the munitions expire and require replacement. The approximate cost of replacing the entire inventory at expiration is \$6,488.

## **4. Rules**

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as chemical agents or “tear gas.”

Other legal guidelines involve the use of chemical agents such as Penal Code 13652. It discusses when and when not to use chemical agents during assemblies, protests, and/or demonstrations.

The Sunnyvale Department of Public Safety Special Weapons and Tactics Team (SWAT) is responsible for the storage, inventory, training, and use of chemical agents. The Sunnyvale SWAT utilizes the LCT50 formula (cu. ft. / grams of CS chemical agent x 0.71 constant variable = LCT50 in minutes) as a guideline only when determining the amount of CS chemical agent to introduce into a structure.

The following persons may authorize the deployment and use of chemical agents:

1. The Chief of Police, Deputy Chief, or Captain.
2. An Incident Commander.
3. The S.W.A.T. Team Captain.

The following Sunnyvale DPS Lexipol Policies govern the deployment of chemical agents:

SUNNYVALE DPS LEXIPOL POLICY 302.6 Tear Gas Guidelines:

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Lieutenant, Incident Commander or SWAT/CNT Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 Treatment for OC Spray Exposure:

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

SUNNYVALE DPS LEXIPOL POLICY 302.8 Post Application Notice:

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 Deployment and Use:

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. The suspect has made credible threats to harm him/herself or others.
- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 Deployment Considerations:

Before discharging projectiles, the officer should consider such factors as:

- a. Distance and angle to target.
- b. Type of munitions employed.
- c. Type and thickness of subject's clothing.
- d. The subject's proximity to others.
- e. The location of the subject.
- f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

#### SUNNYVALE DPS LEXIPOL POLICY 302.9.3 SHOTGUN SAFETY PROCEDURES

Shotguns assigned to SWAT specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles as needed to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and secured in the SWAT armory. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

#### **5. Training**

Personnel assigned to the Sunnyvale DPS SWAT team receive training on the proper use of chemical agents by certified instructors. The training includes when chemical agents can be deployed, how to handle and deploy the munitions, air purifying respirator (APR) use, personnel and structure decontamination, and reporting requirements. Chemical Agent Training also includes a yearly exposure to the chemical agents. There are currently ten (10) Chemical Agent Instructors (CA POST-Certified) within the Sunnyvale DPS SWAT Team.

S.W.A.T. Team personnel who have completed a POST Certified Chemical Agent Instructor Course shall be responsible for providing training in the use of chemical agents to maintain the proficiency of Officers assigned to S.W.A.T. Assigned S.W.A.T. personnel should familiarize Command Staff with the use and deployment of Chemical Agents. S.W.A.T. personnel shall conduct Chemical Agent training annually.

- A. Training shall be documented, and records maintained of such trainings.
- B. Officers shall clean and inspect the Chemical Agent delivery system after each deployment.
- C. The Chemical Agent Cadre of the S.W.A.T. Team shall be responsible for maintaining control of all Chemical Agents and their respective delivery systems. The Cadre shall be responsible for inventorying and updating deployable Chemical Agent munitions.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 Reporting Use of Control Devices and Techniques:

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy. The documentation shall include the following information.

1. Who authorized the use of Chemical Agents.
2. Facts surrounding their use.
3. Was a warning given prior to the Chemical Agent deployment (when applicable)?
4. The type of chemical agent and delivery system used.
5. Name of Officer who deployed the Chemical Agent.

## **6. Compliance**

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified.

Additionally, the Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use chemical agents will be properly trained and certified.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.



# SUNNYVALE DPS – AB 481

## Unmanned Aircraft Systems (UAS)

### 1. Project Background and Description/Expected Lifespan

Small Unmanned Aircraft Systems (UAS) are portable systems flown autonomously without a pilot onboard and controlled from an operator on the ground. They have shown to be a valuable resource to police and fire organizations by providing a bird's eye view of crime and/or disaster scenes that may not otherwise be seen. The UAS has the ability to launch quickly in dangerous situations, locate survivors, and send data about their whereabouts to responders on the ground.

Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Safety, above all else, is the primary concern in every operation, regardless of the nature of the mission.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

The UAS utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

### 2. Purposes and Use

The UAS utilized by the Sunnyvale Department of Public Safety are used to assist in search and rescue missions, fire investigations, HAZMAT response, barricaded suspects, hostage situations and other high-risk tactical operations to reduce risk to department personnel, suspects and community members.

### 3. Fiscal Impact

The Sunnyvale Department of Public Safety UAS program was initially funded by grant funding. The Sunnyvale Department of Public Safety currently utilizes two UAS platforms:

DJI Matrice 210: This UAS is a large platform outfitted with several high-resolution cameras and thermal imaging cameras. The DJI Matrice 210 has a longer flight time and is used for planned operations.

DJI Mavic 2 Enterprise: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The DJI Mavic 2 Enterprise is commonly used to gain access into smaller locations (i.e., indoors) or for unplanned rapid deployments.

Brinc Lemur: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The Lemur is commonly used to gain access into smaller locations (i.e., indoors) and operate in challenging interior environments.

DJI Matrice 210 UAS:	Price: \$ 35,000	Qty: 1	Total: \$ 35,000
DJI Mavic 2 Enterprise:	Price: \$ 5,000	Qty: 1	Total: \$ 5,000
Brinc Lemur UAS:	Price: \$19,241	Qty: 1	Total: \$19,241

The City of Sunnyvale currently pays for routine maintenance and repairs made to both UAS systems. These costs vary depending on needs.

#### **4. Rules**

The following Sunnyvale DPS Lexipol Policies govern the deployment of UASs:

##### **SUNNYVALE DPS LEXIPOL POLICY 357.3 PRIVACY**

The department recognizes that use of a UAS involves potential privacy considerations and is committed to using UAS in a manner that respects privacy rights. UAS operators and observers will consider citizens' civil rights and reasonable expectations of privacy as key components of any decision made to deploy the vehicle.

UAS operators and observers will ensure, and will be held accountable for ensuring, that operations of the UAS appropriately balance operational needs with maintaining public privacy and freedom from intrusion. To ensure that legitimate privacy considerations are observed, UAS operators and observers will:

- a. Absent a warrant or exigent circumstances, adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure).
- b. Take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- c. During flight, direct onboard cameras so as to face away from occupied structures not related to the mission, to minimize the inadvertent capture of video or still images of uninvolved persons.
- d. Maintain all video and still images in strict compliance with State law and Sunnyvale DPS policies and procedures.
- e. Operate strictly within the law and regulations pertaining to UAS. Whenever required by policy or law, operators will ensure that warrants are obtained prior to deploying the UAS.

##### **SUNNYVALE DPS LEXIPOL POLICY 357.10 USE OF UAS**

Only authorized operators who have completed the required training shall be permitted to operate the UAS. All use shall be authorized by the Program Coordinator.

The authorized missions for UAS use are:

- a. Search and Rescue Missions
- b. Response to Fires or Post-Fire Investigations
- c. HAZMAT response
- d. Barricaded Suspects, Hostage Situations and other high-risk Tactical Operations to reduce risk to department personnel, suspects and community members.
- e. Disaster Response (i.e. flood, earthquake)
- f. Video/Photograph documentation of Crime Scenes
- g. Training Flights as required to meet FAA and Department certification standards
- h. Used in accordance with a court order or search warrant

#### SUNNYVALE DPS LEXIPOL POLICY 357.11 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

#### SUNNYVALE DPS LEXIPOL POLICY 357.18 UAS DEPLOYMENT PROCEDURES

- a. Initial requests to use the UAS will be screened by a Patrol Lieutenant. If unavailable, a Team Captain or B/C shall be notified. The approving supervisor will have Dispatch contact the Program Coordinator or Manager to request deployment of the UAS. The request will be screened based on the following:
  1. Is the proposed use of the UAS within the capabilities of the UAS equipment and personnel?
  2. Does the proposed use of the UAS fall within FAA and Department policies and regulations for UAS deployment?
  3. Can the UAS be deployed safely given current weather conditions?
  4. If the UAS deployment requires a warrant, has one been requested and approved?
  5. Are sufficient trained and qualified personnel available to safely operate the UAS?
- b. The UAS Program Coordinator or Manager will either accept or decline the request for UAS support. If the request is denied, a reason will be provided for declining the request to Dispatch, who will provide the requestor this information along with the reason for declining. If the Coordinator or Manager accepts the support request, a UAS pilot will be assigned who will be provided all available mission information.



- c. The UAS pilot will contact a certified observer from the list of available trained observers and arrange for the observer to meet the pilot at the scene. The UAS pilot is responsible for transporting the UAS and all required equipment.
- d. Upon arriving at the requested location, the UAS pilot will contact the on-scene Incident Commander, check in, and receive a briefing on the mission requested. The UAS operators will make an on-scene determination of the ability of the UAS to perform the requested mission safely and within department and FAA policies and procedures.
- e. If the UAS operators determine that the use of the UAS would violate department policy or directives, they will inform the Incident Commander of the potential conflict along with recommendations for modifying the requested mission to conform with department policies and procedures. As this is a change from the original approved mission, the UAS pilot will contact the UAS unit chain of command for direction on how to proceed. As soon as possible after the completion of the mission, the UAS pilot will make a full report of the circumstances and their concern through the chain of command.
- f. UAS operators will have discretion for declaring safety or violation of FAA rules. If UAS operators determine that a requested mission would violate FAA rules or endanger civilians, the UAS pilot will respectfully inform the Incident Commander of the reason(s) for refusing to operate the UAS and contact the UAS chain of command immediately. The UAS will not be flown in this circumstance, and the authority of the UAS pilot is absolute.
- g. If the UAS pilot determines that the requested mission will potentially damage the UAS or its associated equipment, the UAS pilot will inform the Incident Commander of their concern and suggest mission parameter changes. The UAS pilot is the final authority regarding UAS operations.

#### SUNNYVALE DPS LEXIPOL POLICY 357.19 DOCUMENTATION AND EVIDENCE

- a. Prior to every flight, a flight log shall be initiated for documentation.
- b. Inspection and weather will be documented prior to flight within the log book.
- c. After each flight, the operator will complete a statement documenting the UAS operations.
- d. After each deployment, video obtained by the UAS Operation will be submitted to evidence in accordance with Department policies and procedures.
- e. Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.
- f. The pilot of the UAS is responsible for evidence handling as well as writing any supporting documentation for the incident.

#### **5. Training**

#### SUNNYVALE DPS LEXIPOL POLICY 357.6 TRAINING NEEDS ASSESSMENT

The UAS Program Manager and Program Coordinator shall conduct an annual needs assessment to ensure that training is conducted within unit capabilities, department policy, and training guidelines as established by the FAA.

#### SUNNYVALE DPS LEXIPOL POLICY 357.7 INITIAL TRAINING

- a. Upon selection to the collateral assignment of UAS Operator, new members shall acquire an FAA Remote Pilot Certificate, or higher.
- b. Observers must have completed sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This training, at a minimum, shall include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules: Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums; knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual.
- c. Before a member can be authorized to conduct flight operations as a UAS pilot, they must complete at least eight hours of flight training with UAS instructors to show proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.

#### SUNNYVALE DPS LEXIPOL POLICY 357.8 RECURRENT TRAINING

- a. To maintain a level of proficiency with the UAS, operators shall be required to attend regular training. Training will be coordinated through the Program Coordinator.
- b. All members in the assignment shall maintain proficiency in their pilot/observer abilities. Members who do not have any documented training or flight time within a span of 6 months will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.
- c. Recurrent training is not limited to actual piloting/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- d. Failure to demonstrate proficiency can result in removal from UAS responsibilities.

#### SUNNYVALE DPS LEXIPOL POLICY 357.9 TRAINING RECORDS

- a. All members will have a training file on record that details training history. This training file will be held in conjunction with the member's normal training file per Department policy.
- b. All deployments or exercises will be documented and count towards a member's training.
- c. It is the member's responsibility to verify their training file contains all pertinent information.

### **6. Compliance**

#### SUNNYVALE DPS LEXIPOL POLICY 357.4 PROGRAM MANAGER

The Chief will appoint a Program Manager who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

- Ensuring that policies and procedures conform to current laws, regulations and best practices.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief.

#### SUNNYVALE DPS LEXIPOL POLICY 357.5 PROGRAM COORDINATOR

The Director of Public Safety will appoint a Program Coordinator who will be responsible for direct supervision of the UAS Program and its personnel. The Program Coordinator will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Maintaining contact with the FAA and familiarity with pertinent FAA regulations.
- Ensuring that all authorized operators and required observers have completed all required FAA and Department approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that all training, flight and maintenance records for each operator and airframe are maintained.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

## Section 1: Military Equipment Purchase

On November 1, 2022, Sunnyvale City Council approved an ordinance to amend, approve, and adopt the revised public safety military equipment use policy pursuant to the California Assembly Bill No. 481, to increase the authorized quantity of unmanned aerial systems, commonly referred to as drones from two to three devices (RTC 22-0991).

Sunnyvale Department of Public Safety later purchased a Brinc Lemur (UAS) indoor drone and took receipt of the equipment in March 2023.

### FY 2022/23 Military Equipment Purchases

Military Equipment	Qty	Cost	Date of Purchase	Funding Source	Purchase Type
RSK-TB2-A Throwbot 2	1	\$ 13,145	9/21/2022	Justice Assistant Grant	Replacement-Like for like
RSK-TB2-A Throwbot 2	1	\$ 13,920	12/29/2022	Justice Assistance Grant	Replacement-Like for like
Avexure drone (UAS)	1	\$ 1,885	12/8/2022	Supplemental Law Enforcement Services (SLES) Funds	Replacement-Like for like
Brinc Lemur (UAS)	1	\$ 19,241	1/27/2023	Supplemental Law Enforcement Services (SLES) Funds	New – approved by Council RTC 22-091

## Section 2: Community Concerns and Complaints

In some instances, the possession and use of military equipment may cause questions and/or concerns for members of the community. It is vitally important that community members' questions and/or complaints regarding Sunnyvale Department of Public Safety's possession and use of military equipment are addressed.

The Sunnyvale Department of Public Safety is committed to full and fair investigations of community complaints. As such, the Department has sound internal procedures for thorough and impartial investigations of community complaints. Resolving complaints in a fair, impartial, and expeditious manner will ensure the consistent high level of integrity and efficiency maintained by the Department.

In March of 2022, the Sunnyvale Department of Public Safety published its Military Equipment Funding, Use and Acquisition policy on its website.

Community concerns and complaints can be received via the Department’s website, in-person at the police department or in the field during police contacts, telephone, emails and social media. The Department did not receive any community concerns or complaints related to military equipment use in 2022.

Community Concerns	Community Complaints	SDPS Internal Investigations
0	0	0

### Section 3: Internal Inventory & Audit

Per Sunnyvale Department of Public Safety Policy 705.3 (c), the Department’s military equipment coordinator, Chief’s designee, is required to complete an internal inventory audit of all military equipment within the possession of the Department at least once annually.

During the past year 2022/2023, two (2) internal inventories of the Department’s military equipment were completed. The first inventory was completed in Spring 2022, which identified all of the Department’s military equipment in preparation to fulfill the obligations set by Assembly Bill 481.

The Department added one Brinc drone to its inventory in January 2023 (see Equipment Purchases, above). Two (2) Throwbots were purchased in September 2022 and December 2022 replacing pocket robots previously held in inventory. A like for like replacement was completed for a damaged drone. The second inventory was completed in Winter 2023. Staff focused on current military equipment inventory and projected the military equipment needs for 2023 (see Projected Military Equipment Acquisition for further information).

An audit of the use of military equipment was completed by the SWAT Captain. This audit focused on the use of military equipment during critical incidents involving Department personnel. The audit confirmed that Department personnel were found to be in compliance with Policy #705 in the use of military equipment.

### Section 4: Relinquished Military Equipment (2022)

Name	Caliber / Ammo	Quantity	Date
HK MP7 Specialized Firearms	4.6 cal	5 total firearms	Calendar year 2022
Pocket Robot	n/a	2	September 2022 and December 2022

Sunnyvale Department of Public Safety relinquished previously approved military defined firearms, Heckler & Koch MP7, as it was determined to be obsolete due to the availability of replacement parts and maintenance costs. Two pocket robots were used as trade-ins for the purchase of two Throwbots (replace like for like).

## Section 5: Projected Military Equipment Acquisition (2023)

For 2023 (January- December), the Sunnyvale Department of Public Safety projects the purchase of ammunition and flashbang diversionary devices to replenish inventory due to training and critical incident use. The estimated purchase price of this equipment is approximately \$4,439.16. The operating costs of this equipment, which includes acquisition, personnel time, training facilities, transportation/storage of equipment, equipment upgrades and other ongoing costs is budgeted within the Department’s approved operating budget for FY22/23 and FY23/24.

Ammunition, projectiles, cartridges, batteries, and other expendable and maintenance supplies are ordered and replaced on an as needed basis throughout the year in order to maintain an adequate supply for training and actual deployment.

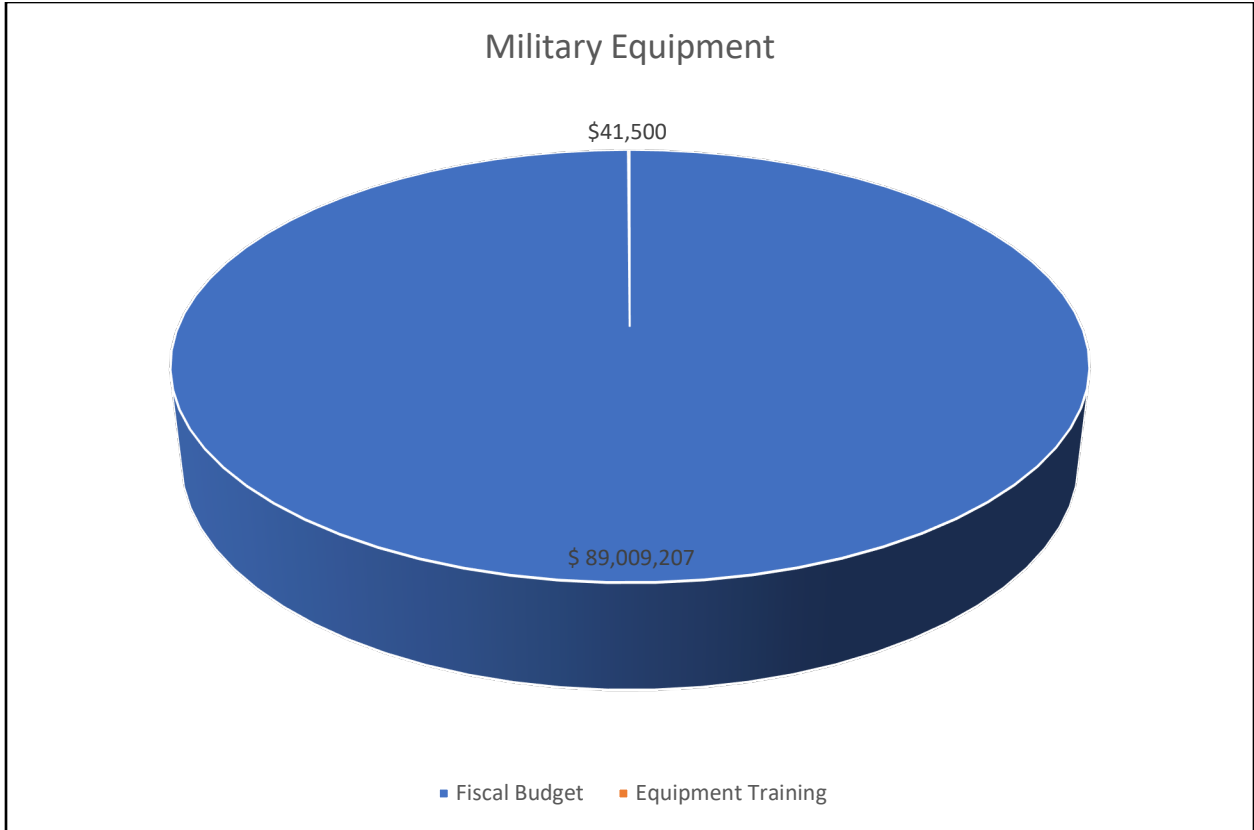
Military Equipment	Projected Purchase Amount	Projected Purchase Price
Noise Flash Diversionary Device (NFDD)	111 Devices	\$4,439.16

## Section 6: Fiscal Impact for 2022

Sunnyvale Department of Public Safety is budgeted for 201 sworn officers, 7 Community Service Officers (CSOs), 20 dispatchers, and 61 professional staff. The operating budget for the department for the 2022-2023 fiscal year is \$89,009,207.

The City of Sunnyvale adopts an operating budget on fiscal year basis (beginning July 1). The equipment owned and possessed by the department was approved in April of 2022 by the City of Sunnyvale City Council. The cost of equipment and expenditures is reflected in this report for January 2022 to December 2022 pursuant to Assembly Bill 481.

During this reporting period, Sunnyvale Department of Public Safety spent approximately \$41,500 for equipment training specified in AB481. The total expenditures represent 0.046% of Sunnyvale Department of Public Safety’s operational budget.



## 2022 Armored Personnel Vehicle Utilized

Case / EV#	Date	Equipment Used	Reason
SV22-0220115	01/22/22	Armored Personnel Vehicle	872 West Knickerbocker Drive – call of a shooting.
SV22-08100123	03/22/22	Armored Personnel Vehicle	1150 Pecos Way – Assault with Deadly Weapon (AR15-Shotgun)
SV22—1620158	06/11/22	Armored Personnel Vehicle	872 San Aleso Ave- Weapons Call
SV22-1950121	07/14/22	Armored Personnel Vehicle	Mutal Aid Request Campbell PD
SV22-1970004	07/16/22	Armored Personnel Vehicle	Mutal Aid Request Mountain View PD
SV22-3240089	11/20/22	Armored Personnel Vehicle	Armed Person in Vehicle
SV22-3420216	12/08/22	Armored Personnel Vehicle	Barricaded Felon in Vehicle



## 2022 Unmanned Aircraft Systems (UAS) Utilized

Date	Time	Location	Purpose
12/25/2022	3:30pm	Malabar/Kiely, Santa Clara	Barricaded subject
12/24/2022	1200pm	Moffet Park Dr/Orleans Dr	Search for aggravated assault suspect
12/19/2022	4:31pm	655 W Olive Ave	Search for subject on roof
12/18/2022	12:26am	802 Carolina Ave.	Air Support/Barricaded Suspect
12/8/2022	10:25pm	926 Poplar Av	Air Support/occupied stolen vehicle
11/18/2022	8:00am	23000 block McKean Rd, San Jose	Training flight/scenario training
11/15/2022	7:00pm	550 E. Remington Dr.	Training Flights
11/14/2022	1:00pm	969 E. Caribbean Dr.	Training Flights
10/31/22	7:15am	425 Costa Mesa Terr	Search for suspects fleeing from enforcement stop
10/29/22	3:15pm	1327 Orleans Dr	Search rooftop for burglary suspects
10/28/22	11:00am	Fair Oaks/Olive	Aerial imagery for collision investigation
10/11/22	12:15pm	El Camino Real/Highway 9	Aerial imagery for collision investigation
10/11/22	11:35am	Mathilda/Washington	Aerial imagery for collision investigation
10/11/22	3:00am	Quetta/Blair	Search for wanted suspect
9/27/22	7:00pm	Wolfe/Inverness	Aerial imagery for collision investigation

9/9/22	8:30am	Wolfe/Inverness	Aerial imagery for collision investigation
7/15/2022	2:30am	Higdon Av/Villa St, Mountain View	Mutual Aid Request. Search of wanted suspect
6/11/2022	8:00pm	800 Blk San Aleso	Search for wanted suspect
6/8/22	9:03pm	Oakmead/Lakeway	Search for wanted suspect
6/8/22	8:15am	Miramar/Suntree	Search for evidence
5/28/2022	11:50pm	526 Almanor Ave	Search for wanted suspect
5/10/2022	1:00pm	Hermosa / Pastoria	Search for wanted suspect
5/9/2022	5:15pm	Fresno / Alpine, Santa Clara	Assistance with armed/barricaded suspect
5/2/2022	9:30pm	1280 / 85, Sunnyvale	Mutual aid request. Search for Hit and Run subject
4/19/2022	10:00pm	1680 Martin, Santa Clara	Mutual aid request. Search for burglary suspect
3/4/2022	11:30pm	644-654 Lakehaven Dr	Search for wanted suspect
2/16/2022	12:05pm	540 N. Fair Oaks	Search for wanted suspect



## SUNNYVALE DPS – AB 481 Military Equipment List

Name of Equipment	Number of Equipment	Description	Ammunition (approx. count)
Pepper Ball Launcher	6	Pepperball SA200 Launcher	N/A
SAGE	6	Sage Deuce 37 mm Launcher	N/A
SWAT SAGE	2	Penn Arms "CL1-40-C" 40 mm Launcher	N/A
FlashBangs	125	CTS Models – 7290 Series	125
CS Gas	184	CTS Models - 5230, 5230B, 8230, 4330, 4331, 4233	184
Explosive Breaching Equipment	3000 ft. detonation cord, 200 detonators, 50 blasting caps	3000 ft. detonation cord, 200 detonators, 50 blasting caps	N/A
SWAT Robots	3	(1) Avatar III, (2) RSK-TBA-2 Throwbot 2	N/A
Armored Personnel Vehicle	1	2007 Ford F-550 4WD	N/A
Mobile Command Vehicle (MEOC)	1	2011 Freightliner Truck	N/A
SWAT Rifles	21	Daniel Defense Rifle	General Issue
SWAT Sniper Rifles	6	Surgeon Bolt/JP Enterprise Rifle	4,000 / yr
HK MP7	(All Relinquished)	Heckler-Koch MP7 Rifle	N/A
UAS	2	DJI Mavic 2/DJI Matrice 210 drone	N/A
UAS	1	Lemur UAS	N/A

## Conclusion

This Annual Military Equipment Report reaffirms the Sunnyvale Department of Public Safety's commitment to providing transparency and information to our communities and elected officials in addition to ensuring compliance with California State law. The equipment, resources, and training outlined in this report allow Sunnyvale Department of Public Safety Officers to better serve and protect Sunnyvale, enhance the safety of officers and community and bring critical incidents to a safe resolution.