

SUBSTITUTE ORDINANCE

Item No.: \_\_\_\_\_

Moved by: \_\_\_\_\_

Prepared by: Jessica L. Indingaro

Seconded by: \_\_\_\_\_

Reviewed by: Megan J. Smith

ORDINANCE NO.: \_\_\_\_\_

AN ORDINANCE TO AMEND THE SHELBY COUNTY CODE OF ORDINANCES BY AMENDING CHAPTER 34-PUBLIC SAFETY TO: (1) CREATE A NEW ARTICLE AND (2) CREATE SPECIAL AUTHORIZATION, USE LIMITATION FOR MILITARY EQUIPMENT AND WEAPONRY, ~~AND ESTABLISH PUBLIC SAFETY AND COMMUNITY POLICING RECOMMENDATIONS FOR THE SHELBY COUNTY LAW ENFORCEMENT AGENCIESSHERIFF’S OFFICE AND THE SHELBY COUNTY OFFICE OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY.~~ SPONSORED BY COMMISSIONER VAN D. TURNER, JR. ~~AND; COMMISSIONER REGINALD MILTON, COMMISSIONER MICKELL LOWERY, AND COMMISSIONER TAMI SAWYER.~~

**WHEREAS**, Recent events have drawn community attention to the need for constructive conversation addressing racial equity and justice reform; and

**WHEREAS**, Shelby County Sheriff Floyd Bonner, Jr. has been at the forefront of reforms that break down barriers between his agency and the community including, but not limited to, adoption of and adherence to the “8 Can’t Wait” policies, as well as participation in Governor Bill Lee’s Law Enforcement Reform Task Force; and

**WHEREAS**, Shelby County Mayor Lee Harris and Sheriff Bonner agree that it is important to keep our community safe but that the use of military-grade equipment does not advance the goal of community trust; and

**WHEREAS**, Mayor Harris and Sheriff Bonner agree that the Shelby County Sheriff’s Office does not have nor does it plan to have military-grade equipment; and

~~**WHEREAS**, There is increased concern over the militarization of civilian law enforcement agencies that can be identified by policies or, according to policing and criminal justice militarization scholar Dr. Pete Kraska, “the process whereby civilian police increasingly draw from, and pattern themselves around, the tenets of militarism and the military model”; and~~

~~**WHEREAS**, Militarization of law enforcement can be achieved in various ways such as those described by policing scholar Dr. Jonathan Mummolo as “adopting weapons, attire, tactics, and organizational structures developed for theaters of war”; and~~

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~~WHEREAS, A report on the militarization of American policing done by American Civil Liberties Union (“ACLU”) states that “American policing has become unnecessarily and dangerously militarized, in large part through federal programs that have armed state and local law enforcement agencies with the weapons and tactics of war, with almost no public discussion or oversight”; and~~

~~WHEREAS, The use of military grade weaponry and equipment, including, but not limited to, armored and tactical vehicles, and automatic weapons, combat fatigues distance the community from the police that serve it; and~~

~~WHEREAS, There are metrics to support that merely seeing militarized officers can diminish public perception of law enforcement, arguably hindering law enforcement officers’ ability to perform their jobs effectively by eroding community trust and communication; and~~

~~WHEREAS, There is data that supports the position that increased militarization of police results in increased levels of force; and~~

~~WHEREAS, On January 16, 2015, President Obama signed Executive Order 13688, which established the Law Enforcement Working Group (“LEWG”), charged with identifying “actions that can improve Federal support for the appropriate use, acquisition, and transfer of controlled equipment by State, local, and Tribal law enforcement agencies (LEAs)”;~~ and

~~WHEREAS, President Obama’s LEWG recommended, among other things, that “the military be prohibited from transferring certain equipment, such as camouflage uniforms, high-caliber weapons, grenade launchers, and armored vehicles, with additional controls placed on the transfer of other equipment”;~~ and

~~WHEREAS, On August 27, 2017, President Trump signed Executive Order 13809, revoking Executive Order 13688, reinstating the transfer of what ACLU describes as “weapons of war” to local law enforcement agencies; and~~

WHEREAS, On January 16, 2015, President Obama signed Executive Order 13688, which limited the transfer of certain military equipment from the Department of Defense 1033 program. On August 27, 2017, President Trump signed Executive Order 13809, revoking Executive Order 13688; and

WHEREAS, Sheriff Bonner previously declined to renew the Sheriff’s Office participation in the 1033 program; and

WHEREAS, Mayor Harris and Sheriff Bonner recognize that in the event of a natural disaster there might be an urgent need to immediately obtain specialized vehicles to rescue, aid, and protect residents, officials and officers; and

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WHEREAS, The Shelby County Board of Commissioners now desires to regulate the no-cost transfer of militarized equipment and weaponry from federal and state programs ~~and offer public safety recommendations to Shelby County law enforcement agencies to the Shelby County Sheriff's Office and the Shelby County Office of Emergency Management and Homeland Security.~~

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that the Shelby County Board of Commissioners hereby adopts the following ordinance to amend Chapter 34, to create a new Article.

**Section 1. Purpose of Ordinance to Create Special Authorization and Use Limitation of Certain Types of Military Equipment and Weaponry ~~and Establish Public Safety and Community Policing Recommendations~~**

The purpose of this ordinance is to prevent over-militarization of Shelby County law enforcement agencies and strengthen trust between communities and law enforcement through the creation of a special authorization process that applies only to military-grade equipment and weaponry from federal and state programs. ~~Additionally, this ordinance serves to express the Board of Commissioners' wishes to improve public safety and strengthen community policing through a set of recommendations to Shelby County law enforcement agencies.~~

**Section 2. Definitions**

2.1 The term "Shelby County law enforcement agencies" means the Shelby County Sheriff's Office, ~~the Shelby County Division of Corrections,~~ and the Shelby County Office of Emergency Management and Homeland Security.

**Section 3. Special Authorization and Use Limitation of Military-Grade Equipment and Weaponry**

3.1 Except as provided in Section 3.2 and 3.3, Shelby County law enforcement agencies shall not participate in the United States Department of Defense 1033 program authorized by Congress under Section 1033 of the National Defense Authorization Act (codified at 10 U.S.C. § 2576a) or its successor, or any other federal or state program that transfers excess military-grade equipment to civilian law enforcement agencies at no cost.

3.2 Shelby County law enforcement agencies may seek to receive from any federal or state program personal protective equipment such as bulletproof vests, other types of body armor, helmets, and shields, or equipment to respond to a natural disaster event, such as rescue vehicles.

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3.3 Shelby County law enforcement agencies may seek to receive or transfer military-grade equipment or weaponry, not defined in Section 3.2, from any federal or state program, subject to the following conditions:

- a. Within 14 days of any request for military equipment or weaponry from a federal or state program, public notice of: (i) the uses of the military equipment and (ii) the estimated annual cost to maintain the military equipment; and
- b. Prior to receipt or transfer of this type of military equipment, the Shelby County Board of Commissioners must vote to approve the transfer by a simple majority vote.

**~~Section 4. Public Safety and Community Policing Recommendations~~**

~~4.1—Where applicable, Shelby County law enforcement agencies may increase and/or incorporate annual training hours to further improve community policing on these topics, including but not limited to: non-violent crisis intervention, de-escalation techniques, cultural diversity, stress management, just and fair policing, implicit bias awareness, police ethics and corruption, effective policing with youth, and human and civil rights/constitutional law.~~

~~4.2—Shelby County law enforcement agencies may offer paid time off for mental health therapy four hours a month or more.~~

~~4.3—Where applicable, Shelby County law enforcement agencies may submit an annual report to the Shelby County Board of Commissioners on the results of psychological assessments of personnel.~~

~~4.4—Shelby County law enforcement agencies may submit an annual report to the Shelby County Board of Commissioners on equity in the promotional process, including but not limited to testing, length of service, and merit.~~

~~4.5—The Shelby County Sheriff's Office may present an annual report to the Shelby County Board of Commissioners on SWAT deployments, including geographic data and types of deployments.~~

**BE IT FURTHER ORDAINED**, That this ordinance shall take effect in accordance with the Shelby County Charter, Article II, Section 2.06 (C), which requires a majority vote of the membership of the board, the public welfare requiring same.

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LEE HARRIS

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Mayor of Shelby County, Tennessee

ATTEST:

\_\_\_\_\_  
CLERK OF COUNTY COMMISSION

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ADOPTED  
THIRD READING: \_\_\_\_\_