

OVER-MILITARIZATION OF LOCAL POLICE DEPARTMENTS: MYTH OR FACT?



Del Rey Oaks Police Department's MRAP vehicle, February 24, 2015

OVER-MILITARIZATION OF LOCAL POLICE DEPARTMENTS: MYTH OR FACT?

SUMMARY

The over-militarization of local police departments, particularly the use of surplus equipment from the Federal Department of Defense's 1033 Program, does not appear to pose a problem among the local police departments that the Monterey County Civil Grand Jury (MCCGJ) reviewed.

The MCCGJ does find, however, that Del Rey Oaks, one of only two local police departments to receive a Mine-Resistant Ambush Protected vehicle (MRAP), has not joined with other departments in regional organizations and that its MRAP vehicle would be better employed if it did so.

BACKGROUND

Increased militarization of local police departments has been an emerging issue. Concern has been driven, in part, by the increased use of Special Weapons and Tactics (SWAT) teams and military-style weapons, equipment, and tactics by police departments. The issue has recently been brought to the national forefront following a number of high-profile articles in the national media, including the events in Ferguson, Missouri in August of 2014. In Monterey County, two large armored MRAP vehicles have been obtained from the Department of Defense by local police departments.

A study of the militarization of police departments was published by the American Civil Liberties Union (2014). It was titled *War Comes Home: The Excessive Militarization of American Policing*, and the executive summary includes the following:

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. [p. 2]

The issue of militarization of local police departments has recently been focused on two Monterey County cities, Salinas and Del Rey Oaks, following their police departments' acquisitions of MRAP vehicles from the Department of Defense under that department's 1033 Program. Area media outlets have devoted extensive coverage to these acquisitions.

Based on this information, the MCCGJ reviewed the 1033 Program acquisitions, as well as the activities and procedures of several local police departments to: (1) determine to what extent they are acquiring military-style weapons and equipment; (2) learn of their use of force policies, as well as procedures and policies for the use of military-style weapons and equipment (primarily by SWAT teams); and (3) identify any issues which might represent a growing problem for our

local communities and indicate whether these local police departments are becoming overly militarized.

INVESTIGATIVE METHODS

The MCCGJ reviewed a number of Monterey Peninsula area police departments to determine their degree of militarization.

- The MCCGJ interviewed officials from Salinas and Del Rey Oaks. As noted above, the police departments of these two cities have each acquired MRAP vehicles from the Department of Defense and support a SWAT team (Salinas) or a Special Response Team (SRT) (Del Rey Oaks).
- The MCCGJ also interviewed officials from the cities of Monterey, Seaside, Marina, and Pacific Grove. The police departments of these cities have not acquired MRAP vehicles, but each contributes officers to the Monterey Peninsula Regional Special Response Unit (Monterey Peninsula Regional SRU), a regional SWAT team that has acquired a light armored vehicle. The MCCGJ also interviewed an official with the Monterey Peninsula Regional SRU.

In our review the MCCGJ also examined a variety of documents, including use of force policies, SWAT/SRU team deployment summaries, and, for Del Rey Oaks, its police department's policy regarding use and deployment of its new MRAP vehicle.

DISCUSSION

The increased militarization of local police departments is often attributed to two primary causes: the war on drugs and the ability of local police departments to acquire surplus military equipment from the Department of Defense. Together these have led to an increase in the number of SWAT teams nationwide, as well as a significant increase in their use. This is detailed in the above-cited American Civil Liberties Union report, which states:

Even though paramilitary policing in the form of SWAT teams was created to deal with emergency scenarios such as hostage or barricade situations, the use of SWAT to execute search warrants in drug investigations has become commonplace and made up the overwhelming majority of incidents the ACLU reviewed—79 percent of the incidents the ACLU studied involved the use of a SWAT team to search a person's home, and more than 60 percent of the cases involved searches for drugs. The use of a SWAT team to execute a search warrant essentially amounts to the use of paramilitary tactics to conduct domestic criminal investigations in searches of people's homes. [p. 3]

According to the Defense Logistics Agency website, the 1033 Program was created within the Department of Defense by the National Defense Authorization Act for Fiscal Year 1997. The goal of the program was to transfer excess military equipment to local law enforcement agencies, with preference to be given to counter-drug and counter-terrorism requests. Although this program has been in existence for well over a decade, the relatively recent addition of large armored vehicles (MRAPs) has focused considerable attention to the practice of providing surplus military equipment to local police departments.



Salinas Police Department's MRAP vehicle, April 15, 2015

ARMORED VEHICLES

MRAPs are large armored vehicles that were specifically designed to withstand improvised explosive device attacks and ambushes, and more than 12,000 were used in the Iraq and Afghanistan wars. These vehicles were added to the Department of Defense 1033 Program in 2013, making them available to local police departments and other agencies (<http://en.wikipedia.org/wiki/MRAP>).

The deployment of MRAP vehicles to many local police departments around the country, as well as to two school districts in southern California, resulted in considerable media attention and serious public objections in some areas. These objections have resulted in the return of a number of these vehicles, including the two that were acquired by the southern California school districts. Locally, according to an article on the *San Jose Mercury News* website (August 28, 2014), the two vehicles acquired by the cities of San Jose and Davis are being returned, while those acquired by Redwood City, South San Francisco, and Antioch will be kept.

Since MRAP vehicles became available, the cities of Salinas and Del Rey Oaks have each acquired one from the Department of Defense under the 1033 Program. During the course of our review, members of the MCCGJ inspected both of these vehicles and learned of the policies regarding their deployment.

Salinas Police Department's MRAP

The City of Salinas, with a population of approximately 154,000, acquired its MRAP from the Department of Defense late in 2013. This vehicle is a two-axle 4x4 built by International, and weighs approximately 37,000 pounds. It has a turret, but has no weapons or weapons ports installed. The turret is used as an observation platform. The vehicle has a front-mounted battering

ram and winch, lights, siren, and a public address system, as well as a number of hand-operated SWAT tools for forcing entry to structures.

This vehicle is being used as a part of SWAT team operations and is designated as an “Armored Rescue Vehicle.” At present, there is a directive in place that the vehicle can be used only during SWAT operations or during an emergency in which the MRAP could help to provide a safe resolution.

The Salinas Police Department’s MRAP was deployed on all SWAT operations during 2014, as well as for bi-monthly training sessions. The number of SWAT operations in that year was nine, all of which were described as, “High risk search warrant/surround and call out.” There were no uses in hostage or barricade situations nor was the vehicle used as part of a rescue operation during that period.

Del Rey Oaks Police Department’s MRAP

The City of Del Rey Oaks, with a population of approximately 1,700, acquired its MRAP vehicle in May of 2014. It is described as a 2013 Caiman three-axle 6x6 built by BAE Systems. This vehicle is larger than the Salinas Police Department’s MRAP, weighing between 66,000 and 69,000 pounds, and is the ambulance configuration of that series. Since its acquisition, the vehicle has been undergoing extensive upgrading, refurbishing and painting, all paid for by a private donor. The estimated cost for these improvements is \$200,000. The MRAP is being outfitted and signed as a “Regional Rescue Vehicle,” and reportedly will become operational in late May, 2015.

The Del Rey Oaks Police Department’s MRAP has no turret, weapons ports, or weapons installed, nor does it have a battering ram. It does have a front-mounted winch with extra tow cables, extensive lighting and camera systems, two portable generators, a public address system, provisions for carrying four gurneys, trauma packs, oxygen, and other equipment related to its intended use as a rescue vehicle.

The Del Rey Oaks Police Department has a written Use and Deployment policy for its MRAP. This became effective in January of 2015 and was approved by the Chief of Police, City Manager, and City Attorney. This policy requires the direction or consent of the Chief of Police for the MRAP to be deployed.

When operational, the MRAP may be deployed to outside jurisdictions if requested under mutual aid agreements, and may be used by the Del Rey Oaks Special Response Team (Del Rey Oaks SRT).

The Del Rey Oaks SRT is made up of three full-time officers and five reservists. Capabilities described to the MCCGJ include a precision rifle team (snipers) and a bomb-sniffing canine unit. There have been no deployments of this team during the past four years, but the precision rifle team provided support to the US Secret Service during a visit to the area by Vice President Joe Biden.

To date, Del Rey Oaks has no admitted gang activity and no major crime problems that would seem to justify the use of such a vehicle within the city limits. The primary use of its MRAP may be in support of other local police departments or the Monterey Peninsula Regional SRU for a rescue or for a prolonged active shooter situation. However, the Del Rey Oaks Police Depart-



Monterey Peninsula Regional SRU's light armored vehicle

ment's MRAP has been described to the MCCGJ by several regional officials as being too hard to maneuver and too large to be driven on some local streets to be practical.

There are other limitations that may affect the local utilization of Del Rey Oaks Police Department's MRAP. These include its operation, in part, by reserve officers. More than one local official stated that reserve officers are not able to participate in the Monterey Peninsula Regional SRU. Another limitation is the failure of the Del Rey Oaks Police Department to join with other departments in regional organizations such as the Monterey Peninsula Regional SRU.¹ In addition to these limitations, several local officials told the MCCGJ that without coordinated training and cooperation with the Monterey Peninsula Regional SRU, they would be reluctant to call up the Del Rey Oaks Police Department's MRAP for anything but a rare prolonged active shooter situation or a catastrophic natural disaster.

Monterey Peninsula Regional SRU's Light Armored Vehicle

The City of Seaside's Police Department acquired a light armored vehicle from the Department of Defense for use by the Monterey Peninsula Regional SRU. This vehicle is much smaller than the MRAPs, and is considered inadequate because it carries too few officers. Efforts are underway to acquire a BearCat armored personnel carrier to replace it.²

¹ Del Rey Oaks cites liability concerns as the reason for not joining the Regional SRU. Del Rey Oaks is also not a member of other local police organizations such as the Peninsula Regional Violence Narcotics Team (PRVNT) [which deals with gang and narcotics trafficking operations], Strategic Traffic Observation and Prevention Program (STOPP) [a traffic program], and the Monterey County's Mobile Field Force [a crowd-control organization].

² The BearCat is an armored personnel carrier built by Lenco Armored Vehicles in a variety of configurations for use by law enforcement and military organizations.

The Monterey Peninsula Regional SRU is made up of police officers from Seaside, Marina, Monterey, Pacific Grove, Sand City, Carmel, and California State University, Monterey Bay. It has subunits trained as tactical emergency medical and crisis negotiation teams. (The City of Del Rey Oaks is not a member of this organization.)

An operation log shows that the Monterey Peninsula Regional SRU was deployed four times during 2014, and 16 times since activation of the unit in January of 2010. These 16 deployments consisted of 10 search warrants, three arrest warrants, two barricaded subjects, and one hostage rescue. The number of deployments will likely increase in the future because the Monterey Peninsula Regional SRU will begin handling high-risk situations for the Peninsula Regional Violence Narcotics Team (PRVNT).

MILITARY EQUIPMENT ACQUIRED BY LOCAL DEPARTMENTS

The California Office of Emergency Services maintains a list of equipment obtained by California agencies and entities under the Department of Defense's 1033 Program. This list is current as of June 24, 2014. Acquisitions by Monterey Peninsula area police departments to that date are as follows:

- Carmel – no acquisitions
- Del Rey Oaks – one mine resistant vehicle (MRAP)
- Marina – no acquisitions
- Monterey – no acquisitions
- Pacific Grove – no acquisitions
- Salinas – one mine resistant vehicle (MRAP) and 30 M-16 rifles
- Sand City – two M-16 rifles
- Seaside – one light armored vehicle³ and 20 M-16 rifles

USE OF FORCE AND SWAT DEPLOYMENT POLICIES

Each of the departments that the MCCGJ interviewed provided a written use of force policy. The MCCGJ also received a copy of the “threat matrix” that must be completed before the Salinas SWAT or Monterey Peninsula Regional SRU teams may be deployed.

The use of force policies reviewed by the MCCGJ are almost all based on the Lexipol template, which is the “industry standard.” The Lexipol website (<http://www.lexipol.com/>) notes that:

Lexipol is America's leading provider of risk management policies and resources for organizations, delivering our services through a unique, web-based development system. Lexipol offers state-specific policy manuals that are integrated with scenario-based daily training on high-risk, low-frequency events.

Lexipol provides more than 150 policies based on federal and state statutes, case law, regulations and best practices.

³ As noted above, the light armored vehicle acquired by the Seaside Police Department was in support of the Monterey Peninsula Regional SRU.

The Lexipol policy manual is written by legal and public safety professionals who constantly monitor major court decisions, legislation and emerging trends affecting your industry. Lexipol provides regular updates in response to legislative mandates, case law and the evolution of best practices.

The City of Del Rey Oaks Police Department has developed its own use of force policy. Although detailed, it is not based on the Lexipol template used by other local police departments to develop their policies.

FINDINGS

- F1.** The Salinas Police Department currently deploys its MRAP vehicle on all SWAT operations, and during 2014 it was not used for any rescue, barricade, or hostage situations.
- F2.** The deployments of the Salinas Police Department's SWAT team and the Monterey Peninsula Regional SRU appear reasonably limited to potentially dangerous situations.
- F3.** Monterey Peninsula area and Salinas police departments have received only small numbers of military surplus weapons or equipment from the Department of Defense.
- F4.** The Del Rey Oaks Police Department has a written policy governing the use and deployment of its MRAP. All deployments will require prior approval by the Chief of Police.
- F5.** The Del Rey Oaks Police Department is not a member of the Monterey Peninsula Regional SRU, PRVNT, STOPP, or the County's Mobile Field Force.
- F6.** The Del Rey Oaks Police Department's MRAP is not likely to be requested by other local agencies for anything but a rare prolonged active shooter situation or a catastrophic natural disaster.
- F7.** Despite its limitations, the Del Rey Oaks Police Department's MRAP would be more useful if Del Rey Oaks joins the Monterey Peninsula Regional SRU and participates in joint training exercises.
- F8.** The problems noted in the American Civil Liberties Union's 2014 report, in which they concluded that American policing has become "unnecessarily and dangerously militarized," do not appear to be present in the Monterey area police departments reviewed by the MCCGJ or in the Salinas Police Department.

RECOMMENDATION

- R1.** The MCCGJ recommends that the Del Rey Oaks Police Department become a member of the Monterey Peninsula Regional SRU.

RESPONSES REQUIRED

Pursuant to Penal Code Section 933.05, the Grand Jury requests a response as indicated below from the following governing bodies:

Salinas City Council:

- Findings F1, F2, F3, and F8

Del Rey Oaks City Council:

- Findings F4, F5, F6, F7, F8; Recommendation R1

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