

Military Equipment

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

707.11 DEFINITIONS

Definitions related to this policy are set forth by Government Code § 7070:

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes:

- 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 of 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 firearms.
- 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.

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707.2 POLICY

It is the policy of the University of California Berkeley Police Department that members of this Department comply with the provisions of Government Code § 7071 with respect to military equipment.

707.2.1 COMPLIANCE PROCEDURE

The University of California Berkeley Police Department will ensure that all Department members comply with this policy and the policies that govern the use of equipment defined as military equipment. The UC Berkeley Police Department shall conduct an annual audit. The Chief of Police or their designee will be notified of any policy violation(s). If needed, the violation(s) will be referred to an internal complaint investigation and handled according to UC Berkeley Police Department's Personnel Complaint policy. All instances of non-compliance will be reported to the UC Board of Regents as part of the annual military equipment report.

Any member of the public can register a complaint, question, or a concern regarding military equipment use by sending their question via email to police@berkeley.edu. The Chief of Police or their designee will respond in a timely manner.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this Department to function as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying Department equipment that qualifies as military equipment in the current possession of the Department or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any other law enforcement agencies that may use military equipment within the jurisdiction of the University of California Berkeley Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the Department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the Department website (Government Code § 7072).

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707.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the UC Police Departments:

[See attachment UC Police Military Equipment Inventory.pdf](#)

707.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy (Government Code § 7071(a)(1)).

As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the Department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071(b)).

The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071(a)):

- (a) Requesting military equipment made available pursuant to 10 U.S.C. § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting, or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this Department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.
- (h) This approval is intended to permit the Department to maintain the quantities of military equipment at the quantities that were last approved by the governing body. Accordingly, the Department can engage in any of the activities listed in 905.6(a)-(g) without seeking additional approval as long as the Department does not exceed the pre-approved quantity.
- (i) **MILITARY EQUIPMENT USE CONSIDERATIONS**

- (a) The military equipment acquired and authorized by the Department is (Government Code § 7071(d) (1)):
 - 1. Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - 2. The military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

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3. Reasonably cost-effective compared to available alternatives, if any, that can achieve the same objective of officer and civilian safety.
4. Military equipment shall only be used by a Department employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances exist.

707.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid. Situations may arise where the Department may deploy or use military equipment, as defined, owned by other law enforcement agencies. The Department hereby adopts the military equipment use policy as is approved, and may be amended from time to time, under Government Code section 7070 et seq., for jurisdictions that the Department may engage with to provide mutual aid. This section is in no way a limitation to the ability of the Department to deploy or use the military equipment of another jurisdiction.

707.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body of each type of military equipment approved within one year of approval and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the Department website for as long as the military equipment is available for use. The report shall include all information required for the preceding calendar year for each type of military equipment in the Department inventory (Government Code § 7072).

The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

- (a) A summary of how the military equipment was used and the purpose of its use.
- (b) A summary of any complaints or concerns received concerning military equipment.
- (c) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (d) The total annual cost of each type of military equipment, including acquisition, personnel training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- (e) The quantity possessed for each type of military equipment.
- (f) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

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707.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment (Government Code § 7072(b)).