

Office of the President

TO MEMBERS OF THE COMPLIANCE AND AUDIT COMMITTEE:

ACTION ITEM

For Meeting of September 21, 2022

UNIVERSITY OF CALIFORNIA COMPLIANCE WITH STATE ASSEMBLY BILL 481

EXECUTIVE SUMMARY

California Assembly Bill 481 (AB 481), authored by Assemblymember David Chiu (D-San Francisco), addresses funding, acquisition, and use of military equipment by law enforcement agencies.¹ The bill creates more transparency, oversight, and accountability in the use and acquisition of certain police equipment. On September 30, 2021, Governor Newsom signed AB 481 into law. The full text of AB 481 is available [here](#).

AB 481 requires law enforcement agencies to obtain the approval of the applicable governing body, through that body's adoption of a military equipment use policy, prior to taking certain actions relating to the funding, acquisition, or use of military equipment as defined by the Legislature.

This year, across California, city councils, county agencies, and other "governing bodies" are also reviewing policies for their respective "law enforcement agencies" that are compliant with AB 481. The bill specifically includes the police department of "any campus of the University of California."²

The University supports and will fully comply with this law, which complements milestones in the UC Community Safety Plan's commitment to community engagement and oversight, transparency, and accountability. Compliance requires the UC Board of Regents to review and approve a policy governing the use of military equipment. The equipment that falls within the scope of AB 481's definition of military equipment provides UC police departments with less lethal alternatives to standard-issue firearms for use in extraordinary public circumstances. No UC campus uses or receives goods from the U.S. Department of Defense and Law Enforcement Support Office (LESO) program for surplus military equipment.

¹ AB 481 added Chapter 12.8 to Government Code Section 7070 Division 7 of Title 1.

² Government Code Section 7070(b)(1)

RECOMMENDATION

The President of the University recommends that the Compliance and Audit Committee recommend to the Regents approval of the military equipment use policy and list of equipment in Attachments 1 and 2, in order to comply with California Assembly Bill 481.

BACKGROUND

The UC Police Department (collectively, all ten UC campus police departments in this item are referred to as the “Department”) retains and employs various equipment that falls within AB 481’s definition of military equipment. The equipment is maintained and in place so the Department can safely achieve its mission to safeguard and protect the communities on all the UC campuses, medical centers, and properties.

Assembly Bill 481

California Assembly Bill 481, authored by Assemblymember David Chiu (D-San Francisco), addresses funding, acquisition, and use of military equipment by California law enforcement agencies.

AB 481 requires all California law enforcement agencies to develop a policy governing the acquisition and use of “military equipment.” Government Code Section 7070(d)(1)-(7) provides that such a policy should include:

1. Descriptions of the military equipment, its quantity, its capabilities, and lifespan;
2. The equipment’s purpose and authorized use;
3. The equipment’s fiscal impact – including initial cost and maintenance;
4. Legal and procedural rules governing the equipment’s use;
5. The required training for the equipment’s use;
6. Mechanisms to ensure compliance with the policy; and
7. A mechanism to file complaints.

Government Code Section 7070(c) defines “military equipment” by listing fifteen categories of equipment; however, this list includes a wide range of equipment—ranging from Humvees and weaponized aircraft to rubber bullets and long range acoustic devices. The full text of AB 481, including provisions defining military equipment, is available [here](#).

Mission and Values of the Department

In response to the requirements placed on law enforcement by AB 481, the UC Police Chiefs at each campus identified a single point of contact for their campus to aid in the identification and quantities of responsive equipment, defined as military equipment, and to collectively determine a values-based approach for the Department.

The Department prioritizes training, use of best practices, and is forward-thinking in the technology and tools it acquires and utilizes in its mission for the safety of its personnel and the safety of community members, patients, and visitors alike.

The equipment that falls within the scope of AB 481's definition of military equipment provides the Department with less lethal alternatives to standard-issue firearms, for use in extraordinary public circumstances. It is not surplus or military grade equipment and encompasses equipment that is not exclusively used by the military. Additionally, no Department uses or receives goods from the U.S. Department of Defense and Law Enforcement Support Office (LESO) program for surplus military equipment, commonly referred to as the Federal 1033 program.

The UC Police Department recognizes:

- Critical incidents are unpredictable, often fluid, and dynamic in nature.
- The mere possession any equipment does not warrant its use for every incident.
- Use of all equipment, not just military equipment, is predicated on the mission of the department, policy, training, law, the safety of UC officers and the safety of UC communities.

Each campus undertook a full review of its existing military equipment to ensure that its continued retention follows the Department's commitment to maintaining public safety and security for all on each of the University of California campuses.

During this process, some campuses determined that equipment in their inventory was outdated and no longer necessary or that more cost-effective tools were available to ensure the public's welfare, safety, civil rights, and civil liberties. For example, campuses possessing hand-thrown chemical agent canisters eliminated them from their inventory. Others have pulled their 12-gauge less-lethal bean bag launchers and are looking to replace these with the more modern, accurate, and safer less-lethal 40mm impact munitions.

Drafting Process and Consultation

The policy drafting process included periodic reviews with the UC Council of Police Chiefs, who met multiple times to review the lists for each campus to ensure that the remaining equipment met the requirements under Government Code Section 7071(d)(1).

The UC Council of Chiefs enlisted the assistance of UC Legal at the Office of the President in drafting a policy for the University consistent with the statute. On April 28, 2022, after consultation with the Office of the President, the President sent a letter to the Regents (Attachment 3), apprising them of UC's intent to comply fully with AB 481 and that the process was underway.

The May 2022 and July 2022 meetings of the UC Council of Chancellors included presentations and briefings to bring awareness to campus leadership of the new law, and the work underway to comply with AB 481. At those meetings, each campus was advised to consult across campus

leadership and with campus chiefs of police regarding local inventory that may qualify under the statute.

The May, June, and July monthly convenings of the UC Community Safety Plan Responsible Officers also featured short progress briefings of the University's work to comply with AB 481.

Review of Inventory

Following the extensive review of existing inventory and the removal of some equipment, the remaining inventory of military equipment at the ten UC campuses is included in full in Attachment 2. Of note, inventory that meets the requirements of the statute includes:

1. A bomb robot, used by the UC Berkeley Bomb Squad to aid in the removal of suspected explosives devices, ensuring the safety of the campus community members, visitors, and police officers tasked with handling these types of incidents.
2. A command post vehicle, designed to aid its campus in the coordination of pre-planned events so they are conducted safely and to provide a mobile emergency operations center to aid in the response and recovery to disasters.
3. Breaching rounds, used to gain access to locked doors in emergencies. One campus used these tools during an active shooter situation where keys were not readily available.
4. Distraction devices, used to distract dangerous suspects using light and sound so officers can safely effect an arrest and bring to conclusion high-risk situations where lives are at risk.
5. Long Range Acoustic Device (LRAD), a portable speaker used to provide increased sound and clarity over public address systems, bullhorns, or megaphones so officers can effectively communicate with crowds and provide emergency directions to people in large areas so they can take immediate actions such as sheltering in place or evacuating.
6. The remainder of the military equipment is less-lethal tools, including kinetic energy and impact launchers and munitions, as well as chemical agents, such as pepper spray or tear gas by itself in a spray or included in impact munitions.

All these tools are meant to provide officers with the ability to de-escalate or overcome self-destructive, dangerous, or combative individuals without having to resort to deadly force. These tools are not used indiscriminately but with caution to protect the lives of UC community members/visitors and UC officers when bringing an incident to a conclusion with the least amount of force.

The above equipment requires initial training through a manufacturer's certified instructor, or California Police Officer Standards and Training (POST), Federal Bureau of Investigation (FBI), National Tactical Officers Association, California Tactical Officers Association, or through

POST-certified instructors. The training extensively covers how to use (mechanics) and when to use (appropriate deployment) of the equipment. Some of this equipment, primarily summarized in #6 above, requires annual re-certifications.

Importantly, the University's policy dictates that only those officers trained in the use of any piece of equipment may use that equipment. Additionally, beyond these requirements, the Department follows University-specific guidance from the [Robinson-Edley Report \(UC Response to Protests on UC Campuses\)](#), the [Report of the Presidential Task Force on Universitywide Policing](#), and the recently released [UC Community Safety Plan](#).

Additional Public Consultation and Ongoing Accountability

A provision of AB 481 requires an annual report to the governing body. Following initial adoption of the policy by the UC Board of Regents, each UC Campus Police Department will submit an annual report. The report must include information on how the equipment was used, complaints about equipment, results of any internal audits or violations of the equipment use policy, information on the equipment's cost, updated information on equipment quantities, and information on requests to acquire additional equipment.³

AB 481 further requires local community engagement. Specifically, within 30 days of the submission of an annual report to the Regents, each UC Campus Police Department must 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."⁴

Finally, the UC Board of Regents must review the military equipment use policy "at least annually."⁵ It must do so by "vot[ing] to renew the ordinance" in an open meeting.

As noted earlier, AB 481 is complementary to ongoing efforts relating to campus safety, including the UC Community Safety Plan. The University has published progress on AB 481 compliance with links to each campus' posting of the draft policy and inventory on the [Systemwide Community Safety website](#).

REQUIREMENTS TO MEET STATUTE

The statute outlines several specific requirements and a timeline of engagement, public postings, and actions to be fully compliant. AB 481 defines military equipment by listing 16 categories and a wide range of material, and further requires the governing bodies and law enforcement agencies to debate and decide in a public forum what is approved and the policies that will govern the use of that equipment.

³ Government Code Section 7072(a)(1)-(6)

⁴ Government Code Section 7072(b)

⁵ Government Code Section 7071(e)(1)

To approve the policy, the Regents must determine the following:⁶

- The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- If purchasing the equipment, the equipment is reasonably cost-effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.⁷

Timeline

Compliance with AB 481 requires meeting milestones on a specific timeline. The University's progress and planning to date is summarized as follows:

1. Commence a governing body approval process by May 1, 2022.
STATUS: COMPLETE. See letter dated April 28, 2022 (Attachment 3).
2. A law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.
Due: August 21, 2022
STATUS: COMPLETE. Each campus police department website posted the draft policy, and the Systemwide Community Safety website (hosted at UCOP) has posted links to the campus draft policy.
3. UC Regents adopt a military equipment use policy within 180 days (of commencement of the process).
Due: October 28, 2022
STATUS: IN PROGRESS (*This action item would achieve compliance*)
Of note: *If the governing body does not approve the policy at a public meeting prior to the October 28, 2022 deadline, the law enforcement agency must cease the use and the acquisition of all specified military equipment until approval is obtained.*

⁶ Government Code Section 7070(d)(1)(A)-(D)

⁷ Government Code Section 7071(d)(1)

4. The Department will submit an annual report to the Regents; that report must include information on how the military equipment was used, complaints about military equipment, information on the equipment’s cost, and information on equipment quantities.
Due: September 2023 (assuming initial approval occurs in September 2022)
5. The UC Board of Regents must review the military equipment use policy at least annually, by voting to “renew the ordinance” in an open meeting.
Due: September 2023 (assuming initial approval occurs in September 2022)
6. Within 30 days of the annual report, each UC Police Department must 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.”
Due: October 2023 (assuming initial annual report is submitted in September 2023)

Key to Acronyms

AB	Assembly Bill
POST	California Police Officer Standards and Training

ATTACHMENTS:

[Attachment 1: Draft Military Equipment Use Policy](#)

[Attachment 2: Report on Assembly Bill 481 by the UC Council of Chiefs of Police, including an Equipment List](#)

[Attachment 3: Letter dated April 28, 2022 from the President to the Regents, advising of the upcoming process to meet the requirements of AB 481](#)