

See reverse re: exigent circumstances

Special Equipment Proposed Ordinance

Precedents in Other Jurisdictions

As a result of widespread activism and awareness in the last couple months, more cities and states are putting restrictions of diverse kinds on militarized equipment for police. See an initial list below. The proposed ordinance is more comprehensive than most legislation. But it also does not go as far, since it does not actually ban or even restrict use of any equipment, but instead requires consideration of whether and how to use a range of special equipment and transparency on its acquisition and use.

(Much of following information comes from [this compilation](#) by the International Center for Non-for-Profit Law.)

- New Jersey and Montana - Legislation in both states enacted in 2015 limits military equipment grants from the federal government. The New Jersey law establishes a system of civilian oversight - and requires approval by elected bodies - for all police equipment acquisitions from the federal government.
- Charlottesville, VA - **enacted** a prohibition on acquisition of equipment from armed forces and on any type of militarized training in [this resolution](#) (see pp 75-76)
- Pittsburgh, PA - is considering **legislation that would prohibit the city from receiving any military weapons from the Department of Defense (2020-0406)**
- **Washington D.C. enacted** legislation that banned the city from acquiring certain military equipment from the federal government, including armored or weaponized vehicles and drones, grenades and grenade launchers, and firearms above a certain caliber ([B23-0825](#)).
- **New York state** lawmakers introduced legislation that would prevent law enforcement from receiving certain military equipment from the federal government, including grenades and grenade launchers, armored vehicles, and armored or weaponized drones ([S 8507 / AB 10660](#))
- Oakland, CA considering legislation, after unanimous approval by Police Commission, of very similar ordinance
- The City Council of **Seattle, WA**, prohibited the police's use of acoustic weapons against crowds ([CB 119805](#)).
- The Mayor of **Portland, OR**, directed police to only use LRADs as a communication device and to not use their "sonic warning tone" against crowds.
- Cambridge, MA - is considering a prohibition on some militarized equipment.
- **New York (S8516); Minnesota (HF 86); Massachusetts (HD 5218 and S 2968) have completely prohibited kinetic energy projectiles**
- **Seattle, WA (CB 119805 passed Council) have completely prohibited kinetic energy projectiles**
- **Complete prohibition on law enforcement's use of chemical irritants: State:** Massachusetts ([HD 5218](#) and [SD 2968](#)); New York ([A 10599](#), [S 8512](#), [S 8514](#), and [S 8516](#)); Minnesota ([HF 86](#)); and Ohio ([HB 707](#)).
- **Municipal:** Seattle WA ([CB 119805](#) passed council); Nashville, TN ([BL2020-329](#)); Madison, WI (Res. [61265](#)); New Orleans, LA ([proposal](#)); Salisbury, NC ([proposal](#)); City Council of Charlotte, NC, blocked funding for tear gas for the coming year.
- **Prohibition on the use of chemical irritants: State:** Washington DC ([B23-0825](#) passed Council); Oregon ([HB 4208](#) enacted); Colorado ([SB 20-217](#) enacted); Massachusetts ([S 2820](#) passed senate); Minnesota ([HF 88](#)); California ([AB 66](#)); Michigan ([HB 5925](#)); Georgia ([HB 1206](#)).

- **Municipal:** Iowa City, IA (20-159 passed council); Olympia, OR (resolution passed council); Boston, MA (0811); Portland, OR (order of mayor); Columbus, OH (directive of the mayor); Richmond, VA (proposed in Council).

Exigent circumstances

The proposed ordinance language defines Exigent circumstances, but as a result of a mistake does not reference them in the document. With support from author CM Harrison, we propose adding the following section to the proposed ordinance, which is nearly identical to the provision for exigente circumstances in Berkeley's Surveillance Ordinance.

2.100.040 Temporary Acquisition and Use of Controlled Equipment - add section (D)

Notwithstanding the provisions of this Chapter, the City Manager may borrow, acquire and/or temporarily use Controlled Equipment in Exigent Circumstances without following the requirements in Sections 2.100.030 and 2.100.040. However, if the City Manager borrows, acquires or temporarily uses Controlled Equipment in Exigent Circumstances he or she must take all of the following actions:

1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged;
2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed Controlled Equipment Impact Report and Controlled Equipment Use Policy, as applicable, to the City Council within 90 days following the borrowing, acquisition or temporary use, and receive approval, as applicable, from the City Council pursuant to Sections 2.100.030 and 2.100.040; and
3. Include the Special Equipment in the City Manager's next annual Controlled Equipment Report.

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