

September 12, 2017

The Honorable John McCain  
Chair, Senate Armed Services Committee  
218 Russell Senate Office Building  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member, Senate Armed Services Committee  
728 Hart Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Chair, Senate Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

The Honorable Dianne Feinstein  
Ranking Member, Senate Committee on the Judiciary  
331 Hart Senate Office Building  
Washington, DC 20510

The Honorable Ron Johnson  
Chair, Senate Homeland Security and  
Governmental Affairs Committee  
328 Hart Senate Office Building  
Washington, DC 20510

The Honorable Claire McCaskill  
Ranking Member, Senate Homeland Security and  
Governmental Affairs Committee  
503 Hart Senate Office Building  
Washington, DC 20510

**RE: Defense Department 1033 Program and the militarization of police**

Dear Chairmen and Ranking Members:

We are a broad coalition of civil liberties, civil and human rights, and government accountability groups deeply disturbed by the Trump administration's revocation of President Obama's 2015 Executive Order 13688 and its ensuing recommendations, which placed critical limits on federal programs that provide military equipment to law enforcement agencies. We have numerous questions and concerns about the future of military-grade weapons in our communities, on our streets, and in our schools. The 2015 reforms included training, record-keeping, and oversight measures for better accountability and transparency, and to ensure that taxpayer dollars were not spent in a wasteful or harmful manner. We ask you to exercise your oversight responsibilities to ensure that, if military equipment is provided to law enforcement, such equipment is not overused and misused. **We urge you to use your leadership in the U.S. Senate to call for a moratorium on the U.S. Department of Defense's 1033 program—the largest and most prominent federal program providing police departments with military equipment—until Congress holds hearings to provide the public with important assurances and to consider various legislative proposals about this issue.**

We have long been engaged in a dialogue with the federal government on the issue of federal, state, local, and tribal law enforcement agencies' (LEAs) use of military equipment and tactics since the troubling militarized response from local police departments to the protests in Ferguson, Missouri in 2014. This engagement included regular stakeholder meetings—of law enforcement, advocates, and government officials—with the interagency working group on federal equipment. Despite numerous requests, no meetings were convened this year. We have also met with and heard from communities—most often communities of color—directly impacted by the use of military equipment and tactics by law enforcement. These communities have lost loved ones, fought the acquisition of military equipment for school police, and had their First Amendment rights chilled by officers wielding military weapons on their streets. Finally, we have met with law enforcement leaders who care about their relationships with the communities they serve. What we have learned is this: when the federal government provides police with unfettered access to military equipment, it threatens fundamental constitutional rights, undermines public trust in our government, and is an enormous waste of taxpayer dollars.

We are dismayed that, after years of advocacy and dialogue, we are once again returning to an era in which federal agencies will operate these programs virtually unchecked. This issue is even more pressing given today's political climate—against a backdrop of increased protests nationwide and President Trump's inexplicable speech encouraging law enforcement to be "rough." After the 2015 reforms, LEAs continued to have wide access to and persistently used military equipment and tactics, but allegedly with increased oversight and

accountability. Yet, approximately six weeks ago, the Government Accountability Office (GAO) released an alarming report about the failures of the Department of Defense 1033 program. The GAO created a fictitious LEA and obtained over 100 items—some potentially lethal—valued at \$1.2 million. The report recommended a number of changes to improve oversight, management, and control over the 1033 program, which transfers hundreds of millions of dollars of taxpayer-funded military equipment to LEAs nationwide. We are stunned that, in the wake of this report, the Trump administration has determined the best course of action is to remove all oversight over the 1033, and similar, federal programs.

We are troubled by Attorney General Sessions’ mischaracterization of the nature and scope of the 2015 reforms. The 2015 reforms did not—as Attorney General Sessions claimed—focus on “superficial concerns” or limit access to “lifesaving gear.” Following those reforms, most military equipment and weapons continued to be available to LEAs. For some equipment (i.e., “controlled equipment”), LEAs were asked to describe how the equipment would be used and to verify that officers would be appropriately trained. In other words, the 2015 reforms provided critical oversight and accountability, which the public expects of all federal government programs.

Indeed, the 2015 reforms did not restrict access to most equipment used by law enforcement in first responder and rescue operations (including the Kevlar vests mentioned by Attorney General Sessions). The reforms banned a short list of military equipment—notably, the transfer of bayonets, grenade launchers, and other military weapons and vehicles—that would not be needed for narrow circumstances in which imminent risk of death or serious bodily harm exist, such as an exceptional search and rescue operation or active shooter.

Unfettered access to military equipment enables and arguably encourages escalated, military-style tactics and excessive and oftentimes fatal use of force in our streets and, alarmingly, in public schools. Moreover, law enforcement’s use of military equipment disproportionately impacts communities of color, which is particularly unacceptable in the wake of Charlottesville. Therefore, such federal programs—to the extent they provide military equipment or facilitate its acquisition—must be subject to necessary limits and additional oversight due to their corrosive impact on constitutional and community policing and exacerbation of racial tension in this country. We urge you to suspend the controversial 1033 program until Congress and the public understand—through Congressional hearings—what steps the federal government is taking to provide oversight and accountability of these programs. For more information, please contact Madhu Grewal at [mgrewal@constitutionproject.org](mailto:mgrewal@constitutionproject.org) or (202) 580-6939.

Sincerely,

18MillionRising.org  
American Civil Liberties Union  
African American Ministers In Action  
American-Arab Anti-Discrimination Committee  
Amnesty International USA  
Bend the Arc Jewish Action  
BMore Awesome Inc.  
Campaign for Youth Justice  
Church of Scientology National Affairs Office  
Connecticut Juvenile Justice Alliance  
The Constitution Project  
Council on American-Islamic Relations (CAIR)  
Defending Rights & Dissent  
Drug Policy Alliance  
Desis Rising Up & Moving (DRUM)  
Exodus Foundation.org  
First Amendment Coalition  
FreedomWorks

Friends Committee on National Legislation  
 Government Information Watch  
 Human Rights Watch  
 Justice Strategies  
 KARAMAH  
 Law Enforcement Action Partnership  
 The Leadership Conference on Civil and Human Rights  
 Louisiana Center for Children's Rights  
 Million Hoodies Movement for Justice  
 MommieActivist and Sons  
 NAACP  
 NAACP Legal Defense and Educational Fund, Inc.  
 National Association of Criminal Defense Lawyers  
 National Action Network  
 National Association of Social Workers  
 National Bar Association  
 National Center for Transgender Equality  
 National Council of Churches  
 National Immigrant Justice Center  
 National Juvenile Justice Network  
 National LGBTQ Task Force  
 New York Civil Liberties Union  
 OpenTheGovernment  
 Project South  
 R Street Institute  
 Refugee and Immigrant Center for Education and Legal Services (RAICES)  
 Rutherford Institute  
 Southern Border Communities Coalition  
 Southern Poverty Law Center  
 StoptheDrugWar.org  
 Strategies for Youth, Inc.  
 Students for Sensible Drug Policy  
 Sunlight Foundation  
 T'ruah: The Rabbinic Call for Human Rights  
 The Daniel Initiative  
 Transformative Justice Coalition  
 Transgender Law Center  
 Treatment Communities of America  
 Vermonters for Criminal Justice Reform  
 Veterans For Peace  
 Women Who Never Give Up  
 Youth Justice Coalition

cc: Members of the Senate Armed Services Committee  
 Members of the Senate Committee on the Judiciary  
 Members of the Senate Homeland Security and Governmental Affairs Committee

Members of the House of Representatives Armed Services Committee  
 Members of the House of Representatives Committee on the Judiciary  
 Members of the House of Representatives Oversight and Government Reform Committee