

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 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 on Government Oversight
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