



P.O. Box 32159  
Newark, NJ 07102

Tel: 973-642-2086  
Fax: 973-642-6523

info@aclu-nj.org  
www.aclu-nj.org

Frank Corrado  
President  
Udi Ofer  
Executive Director  
Edward Barocas  
Legal Director

## TESTIMONY ON SENATE BILL NOS. 2364 & 2365

**ARI ROSMARIN, PUBLIC POLICY DIRECTOR  
AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY**

### SENATE LAW & PUBLIC SAFETY COMMITTEE

*December 11, 2014*

Thank you Chair Greenstein, Vice-Chair Barnes, and members of the Committee. Thanks also to the sponsor of these bills, Senator Gill, who has been boldly leading the charge to strengthen accountability and draw attention to the militarization of law enforcement in New Jersey.

My name is Ari Rosmarin and I am the Public Policy Director for the American Civil Liberties Union of New Jersey (ACLU-NJ). The ACLU-NJ is a non-profit, nonpartisan organization founded in 1960 to promote and defend the rights and freedoms in the New Jersey and federal Constitutions. The ACLU has approximately 12,000 members across New Jersey and tens of thousands of supporters across the state. The ACLU-NJ is the state's leading organization dedicated to advancing and defending civil rights and liberties.

The ACLU-NJ is proud to testify today in support of S2364 and S2365, which will finally add much-needed, and long-overdue oversight into New Jersey localities' participation in the Department of Defense's "1033 Program," which sends surplus military equipment, weapons, and vehicles into communities across our state. The growing militarization of our local police departments is a troubling trend, and one that raises significant civil rights and liberties concerns. While we are fully cognizant of the dangers inherent in modern policing, New Jersey is not a war zone. While some equipment acquired under the program, such as office supplies, generators, or sleeping bags, may not raise civil rights and liberties concerns, the transfer of mine-resistant ambush-protected vehicles, bayonets, M-16s and M-14s, grenade launchers, and other such combat weapons and vehicles decidedly do.

### **Militarization of Local Law Enforcement Harms Community Policing**

A nationwide ACLU investigation into this trend<sup>1</sup> found that the trend toward militarization of local law enforcement agencies led to "mission creep" by SWAT teams, which receive many of the military-style weapons under the 1033 program. While SWAT teams were initially created to deal with emergency events such as hostage, barricade, and active-shooter situations, research revealed that between 2011 and 2012, nearly four out of five SWAT deployments in the

---

<sup>1</sup> WAR COMES HOME, THE EXCESSIVE MILITARIZATION OF AMERICAN POLICING, ACLU (June 2014), available at <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>

jurisdictions studied by the ACLU were carried out for the purpose of executing a search warrant, most commonly in drug investigations. As you are likely aware, the execution of a search warrant precedes a formal accusation of a crime; in drug cases, police are simply acting on the basis of probable cause to believe drugs will be present. Absent a particularized expectation of imminent bodily harm, the use of military tactics to search for drugs in an individual's home is wholly inappropriate.

Battlefield weapons and tactics in our local towns can cultivate a "warrior mentality" among police officers and a "sieged" feeling in our communities, which work directly against the cornerstones of community policing: trust and cooperation between communities and police. To be clear, there are real consequences to militarizing our law enforcement agencies, including potential discrimination, an environment of fear and mistrust, and increased risk of physical danger for both law enforcement and ordinary citizens.

### **Communities of Color Disproportionately Face Militarized Policing Nationwide**

The increased militarization of police nationwide, like so many policing practices that raise civil rights concerns, has also had a disproportionate impact on communities of color. A 2014 national report by the ACLU, *War Comes Home*,<sup>2</sup> found that in the jurisdictions researched in the study, 61% of the people impacted by the use of SWAT raids in drug cases were people of color. A majority of the people impacted by SWAT raids in the execution of search warrants were also people of color. This overrepresentation of communities of color in the use of militarized policing also contributes to alienation and mistrust between Black and Latino communities and the police.

### **Militarization in New Jersey: MRAPs, Military Assault Rifles, Grenade Launchers**

Despite an absence of state and local transparency for years as to what equipment has been acquired under the Pentagon's 1033 Program, we now know that New Jersey law enforcement agencies have received thousands of military vehicles, weapons, and other pieces of equipment in recent years.<sup>3</sup> This includes 865 military assault rifles, mine-resistant ambush-protected armored vehicles, grenade launchers, bayonets, and more. Although police budgets are strained, building up a military-style arsenal in the name of cost savings is inappropriate and short-sighted.

One particularly high-profile debate on the militarization of law enforcement took place this year in Bergen County. The ACLU-NJ strongly opposed the decision of the Bergen County Sheriff's Office to seek acquisition of two MRAPs this summer. After robust public debate and scrutiny, the Sheriff announced last week that he was withdrawing his request to acquire the armored vehicles. He had previously announced that the department would be returning the grenade launcher it had acquired. While there remain other agencies in Bergen County with similar equipment and demilitarization is still a priority there, the incident provides an important example of what impact transparency, public debate, and oversight can have on these decisions.

---

<sup>2</sup> *Id.*

<sup>3</sup> Carla Astudillo, What surplus military gear landed with your police department? (Interactive) NJ.COM (Dec. 1, 2014), [http://www.nj.com/news/index.ssf/2014/12/what\\_surplus\\_military\\_gear\\_landed\\_with\\_your\\_police\\_department\\_interactive.html](http://www.nj.com/news/index.ssf/2014/12/what_surplus_military_gear_landed_with_your_police_department_interactive.html).

## **S2364 and S2365 will Provide Important Oversight and Transparency to 1033 Program**

**S2364** would require the local governing bodies of our towns, cities, and counties to deliberate and vote on law enforcement or corrections agencies' requests to enroll in federal military surplus programs, and to acquire vehicles, weapons, or other equipment from those programs. This mandated oversight is a critical component of ensuring that New Jersey communities have a say in decisions to acquire military equipment made in their name. The local approval requirement will also build in a mechanism for transparency in the process of the acquisition of this equipment, and provide an opportunity for critical oversight.

This bill also tracks new requirements that are expected to be forthcoming from the Obama administration to require local government authorization before law enforcement agencies seek to acquire military surplus equipment, as well as increased training, recordkeeping, and oversight related to the acquisition and use of such equipment.<sup>4</sup>

**S2365** would require the Attorney General to direct the Office of Emergency Management, which currently oversees New Jersey's participation in the military surplus program, to conduct a review of the program and identify whether existing policies, procedures, and guidelines need to be revised. It also requires the Attorney General's authorization before the any transfer of military equipment to local law enforcement agencies based on demonstrated need, appropriate training, and storage and maintenance requirements, in addition to other criteria to be set by the Attorney General. Finally, it would also require the Attorney General to report annually to the Governor and Legislature about the military equipment transferred under the program and the purposes for which the equipment will be used.

Oversight from the Attorney General's office is a welcome layer of oversight over this program. A top-to-bottom review of policies and procedures in place currently is an important step in identifying best practices and standard operating procedures to ensure that military weapons and vehicles are only being transferred to and used by local law enforcement agencies when absolutely necessary.

Further, requiring annual reporting by the Attorney General's office to the Governor and Legislature will operate as an important oversight function. However, we urge the Attorney General, Governor, and the Legislature to publish those annual reports so that the public can have a clear picture of what military equipment is making its way into New Jersey communities. As we have long known, "sunlight is...the best of disinfectants."<sup>5</sup> This program is in great need of disinfectant, and these bills will go a long way towards providing it.

We urge your support for S2364 and S2365. Thank you.

---

<sup>4</sup> Ted Sherman, *Report finds flood of military weapons into police arsenals needs better oversight*, NJ.com (Dec. 2, 2014), [http://www.nj.com/news/index.ssf/2014/12/report\\_finds\\_flood\\_of\\_military\\_weapons\\_into\\_police\\_arsenals\\_needs\\_better\\_oversight.html](http://www.nj.com/news/index.ssf/2014/12/report_finds_flood_of_military_weapons_into_police_arsenals_needs_better_oversight.html).

<sup>5</sup> Louis D. Brandeis, *OTHER PEOPLE'S MONEY AND HOW THE BANKERS USE IT* 92 (1914), New York, Frederick A. Stokes Co.