

**Congress of the United States**  
**Washington, DC 20515**

December 2, 2014

The Honorable Eric Holder  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Holder:

We are pleased that the Department has begun a review of police tactics, techniques, and training. The tragic events in Ferguson, MO that precipitated this review focused the nation upon the issue of police militarization and the increasing use of Special Weapons and Tactics (“SWAT”) officers. These are concerning trends that may be emblematic of a militarized state that if left unchecked – could take our nation in the wrong direction.

As the Department of Justice conducts a review of police tactics, techniques, and training, we are writing to inquire about the role the Department of Justice (“DOJ”) plays in training and monitoring SWAT units and the use of militarized equipment by local law enforcement and SWAT units. We are aware of reports from across the country of officers using excessive force against civilians, children being the unintended victims of SWAT officer activities, the increasing use of militarized equipment by SWAT officers, and the failure of SWAT officers to effectively maintain large crowds, as seen in Missouri.

In 2014 alone, there have been 34 deaths resulting from SWAT raids.<sup>1</sup> We are concerned this number will continue to grow as the use of SWAT officers and militarized equipment increases. We are alarmed by cases we hear of SWAT officers raiding the homes of civilians wrongly suspected of being involved in drug-related activity. Below, we would like to draw your attention to several cases of excessive use of force by SWAT officers. These examples alone make the case that these issues need serious attention.

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<sup>1</sup> Radley Balko, *Meet 59-year-old David Hooks, the latest drug raid fatality*, WASHINGTON POST, October 6, 2014, <http://www.washingtonpost.com/news/the-watch/wp/2014/10/06/meet-59-year-old-david-hooks-the-latest-drug-raid-fatality/>.

In Georgia, Virginia, and Hawaii, there are examples of excessive abuses perpetrated by SWAT officers and the over use of militarized equipment. For example, SWAT officers threw a flash-bang grenade into the crib of a sleeping 2-year-old in Habersham County, Georgia this year when they raided the home of family members of a suspected drug dealer.<sup>2</sup> The grenade dislodged the child's nose, his left nipple was blown off, his face and chest were burned, and after weeks in the hospital in a medically induced coma, the county refused to pay for the toddler's medical costs, which approach \$1 million.

In Virginia, an unarmed optometrist, named Sal Culosi, was shot and killed by the Fairfax County, Virginia SWAT team after being wrongly suspected of engaging in a gambling ring. An undercover officer befriended him and lured him into violating the law by betting over \$2,000 on an athletic team. When SWAT officers were deployed to arrest him at his home, officers accidentally shot him in the heart.<sup>3</sup>

SWAT officers raided the home of elderly couple Sharon and William McCulley in Omao, Kauai before realizing they broke into the wrong home. SWAT officers pinned both to the ground with their grandchildren next to them, placed a gun next to Mrs. McCulley's head, and caused Mr. McCulley to convulse on the ground because a device implanted in his spine malfunctioned due to the force applied by officers.<sup>4</sup>

Finally, in the most recent instance, the nation was captivated by images of SWAT officers using extreme measures to control crowds of protestors in Ferguson, Missouri this summer.<sup>5</sup> Images in the media made it clear that local law enforcement officers were unprepared to control the large crowds of protestors. The lack of crowd control training was alarming. The actual killing of Michael Brown and images of officers using military grade equipment against unarmed protestors showed a disproportionate response to, and blatant disregard for, normal civilian activity.

In these examples, law enforcement raided the wrong homes causing harm to innocent Americans. This shows a lack of due diligence, preparation, and training on the part of law enforcement.

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<sup>2</sup> Tina Chen, *Baby in Coma After Police 'Grenade' Dropped in Crib During Drug Raid*, ABC NEWS, May 30, 2014, <http://abcnews.go.com/blogs/headlines/2014/05/baby-in-coma-after-police-grenade-dropped-in-crib-during-drug-raid/>.

<sup>3</sup> Tom Jackman, *Officer Won't Face Charges in Shooting Death*, WASHINGTON POST, March 23, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/03/23/AR2006032301117.html>.

<sup>4</sup> Radley Balko, *Botched Paramilitary Police Raids*, CATO INSTITUTE, <http://www.cato.org/raidmap>.

<sup>5</sup> Julie Bosman and Matt Apuzzo, *In Wake of Clashes, Calls to Demilitarize Police*, N.Y. TIMES, August 14, 2014, [http://www.nytimes.com/2014/08/15/us/ferguson-missouri-in-wake-of-clashes-calls-to-demilitarize-police.html?\\_r=0](http://www.nytimes.com/2014/08/15/us/ferguson-missouri-in-wake-of-clashes-calls-to-demilitarize-police.html?_r=0).

These examples are not localized in these three states, but can be found in every state throughout the country. According to research conducted by criminologist, Peter Kraska of Eastern Kentucky University, there were only 3,000 SWAT raids conducted annually in the early 1980s.<sup>6</sup> By 2005, that number had grown to 50,000 raids.<sup>7</sup> We are concerned that it is increasingly proliferating throughout the United States.<sup>8</sup>

Based upon the foregoing, we would like to inquire about the role the Department of Justice (DOJ) plays in training law enforcement officers. For those questions where the Department is unable to answer, please provide a response detailing which federal, state, or local law enforcement agency would be able to respond.

Please respond to the following questions within 30 days:

1. How does the DOJ define “SWAT team?”
2. How does the DOJ define “militarized weapons,” “militarized vehicles,” and “militarized equipment?”
3. Does the DOJ review and monitor states’ use of SWAT teams?
4. Does the DOJ provide criteria that require states to (1) train SWAT officers, (2) monitor the use and performance of SWAT officers in their activities to ensure that SWAT officers (a) meet national standards and (b) do not use excessive force? If not, why? If yes, what are the criteria, and does the DOJ perform any oversight or independent review to ensure training is actually taking place?
5. Does the DOJ have a record of the total number of SWAT units in the United States? If so, is the record broken down by specific states? Please provide the latest numbers of SWAT units in the United States, by state.
6. Does the FBI’s justifiable homicide database distinguish SWAT justifiable killings from other law enforcement justifiable killings? If so, can you please identify the number of people fatally shot as a result of SWAT team conduct in the last five years? Please provide the number by state.

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<sup>6</sup> Radley Balko, *Rise of the Warrior Cop*, THE WALL STREET JOURNAL, August 7, 2013, <http://online.wsj.com/articles/SB10001424127887323848804578608040780519904>.

<sup>7</sup> *Id.*

<sup>8</sup> The American Civil Liberties Union, *War Comes Home: The Excessive Militarization of American Policing* (last visited October 8, 2014), <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>.

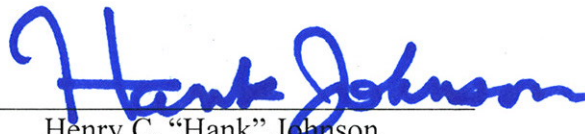
7. How does a particular law enforcement agency's training or lack thereof factor into its eligibility for grants from the DOJ?
8. What does the DOJ consider "prohibited items" when considering the types of items law enforcement agencies can purchase with Justice Assistance Grant (JAG) funds? Please provide examples of the exigent and extraordinary circumstances that have contributed to the DOJ allowing JAG funds to be used for the purchase of militarized equipment.
9. What consequences, if any, are put in place by the DOJ for purchasing "prohibited items" with grant money? What consequences, if any, are put in place by the DOJ for the inappropriate use of approved equipment purchased with grant money?
10. Can you identify the militarized weapons, vehicles, and equipment that have been purchased by state and local law enforcement with JAG funds since its creation in 2005? Can you identify militarized weapons, vehicles, and equipment that have been purchased through other DOJ grants?
11. Does the DOJ review and monitor states' usage of militarized weapons, vehicles, and equipment purchased with JAG funds? If so, does the DOJ have information about how many and the types of militarized weapons, vehicles, and equipment local law enforcement agencies have purchased using these funds?
12. Are there any weapons and equipment the DOJ has deemed as unsuitable for state and local law enforcement? If so, please identify these weapons and equipment.
13. Does the DOJ review and monitor state and local law enforcement usage of militarized weapons, vehicles, and/or equipment received as a result of participation in the Department of Defense's (DOD) 1033 program? If so, does the DOJ have information about how many and the types of weapons, vehicles, and equipment local law enforcement agencies have received under the DOD's 1033 program?
14. Does the DOJ provide oversight or criteria to the states regarding their use of weapons, vehicles, and equipment transferred under the DOD's 1033 program? If not, does the DOJ take the position that the agency has the capacity to oversee said program?
15. Is the use of militarized weapons, vehicles, and equipment associated with certain operations (i.e., counter drug measures)?
16. Does the DOJ know if the use of military equipment and military style tactics is increasing or decreasing and, if so, why?

17. Is use of military grade weapons, vehicles, and equipment essential for SWAT officers to carry out their assignments?

We are strong proponents of ensuring our state and local police officers have the necessary equipment to protect themselves, but we do not condone law enforcement's excessive use of force against civilians. Excessive force causes mistrust between civilians and those who are tasked with protecting them. The examples listed above and countless others are alarming and we look forward to your attention to this matter.

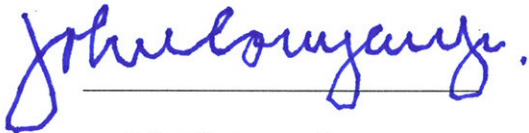
Thank you for taking the time to answer these very important questions and we look forward to your response.

Sincerely,



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Henry C. "Hank" Johnson  
Member of Congress



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John Conyers, Jr.  
Member of Congress



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Robert C. "Bobby" Scott  
Member of Congress