

DEMILITARIZATION



Policy Background

Across the nation, police departments have become heavily armed and increasingly militarized, in large part due to federal programs that have equipped state and local law enforcement agencies with military-grade equipment and weapons, all with very little oversight.¹ In 1990, Congress enacted the National Defense Authorization Act, which authorized the Defense Department to transfer surplus military-grade weapons and equipment to local law enforcement agencies at little or no cost.² Examples of the types of equipment and weapons received by local police departments under this program (known as the 1033 program) include: aircrafts, armored vehicles, body armor, grenade launchers, and assault rifles.³ Local police departments have received transfers ranging from less than \$200 to multi-million dollar transfers.⁴ While President Obama put restrictions on federal transfers of military equipment in 2015, in August 2017, President Trump, without public input, issued an executive order which reinstates the transfer of military-grade tactical equipment and surveillance technologies to local police departments.⁵

As a result of these programs, police departments have become increasingly militarized in their tactics, which include aggressive and often violent SWAT deployments for low-level investigations.⁶ In a 2014 report, the American Civil Liberties Union (ACLU) found that the majority of SWAT deployments (79 percent) were to execute search warrants for low-level drug investigations, and deployments for hostage or barricade situations occurred in only a small number of incidents.⁷ The study also found that, based on recorded data, the use of paramilitary weapons and tactics primarily impacted people of color. When used in drug searches, the primary targets of paramilitary tactics were people of color, whereas when used in hostage or barricade scenarios, the primary targets were white.⁸

However, militarized tactics are not exclusive to SWAT deployment, and can show up in any type of police-community interaction. During heightened moments of resistance and mobilization in the streets, police have used militarized tactics to quell protest. For example, during the Ferguson uprising, law enforcement used snipers, armored vehicles, and tear gas on protesters.⁹

In neighboring St. Louis, officers deployed tear gas without warning and kettled demonstrators who protested the acquittal of a white officer who fatally shot Anthony Lamar Smith, a Black man.¹⁰

Assessing the Landscape

Before assessing the strength of a local jurisdiction's policy, local elected officials should answer the following questions to estimate the amount of military equipment received by local law enforcement and the locality's policies around deployment of SWAT teams.

- Does your city or county participate in the 1033 program? (To view 1033 program data, see: <http://www.dla.mil/DispositionServices/FOIA/EFOLLibrary.aspx>)
- Does your city or county buy weapons using money obtained through the Department of Justice's Justice Assistance Grant (JAG) program? (See <http://www.ncjp.org/state-agencies> for state profiles and a breakdown of local grants.)
- Does your city or county use funding from the Department of Homeland Security's Homeland Security Grant Program to purchase military-style weapons? (See <https://www.homelandsecuritygrants.info/GrantDetails.aspx?gid=17162>, "Award Details" for more information about award allocations, although additional research may be required to determine use of grants.)
- Does the local law enforcement agency use civil asset-forfeiture funds, private donations, or other off-the-books funding to purchase military equipment?
- Does the local law enforcement agency have a local policy around internal SWAT deployment standards? (To answer this question, a Freedom of Information Act request may be required. To see a sample public records request, see Appendix A of the ACLU's report, "[War Comes Home](#)")

Best Practices: Oversight of Military Equipment Transfers

Local elected officials can address the over-militarization of local law enforcement by enacting legislation that gives local elected officials greater oversight and authority over the transfer of military-grade equipment to local law enforcement agencies.¹¹ A gold standard policy would ban all transfers of military equipment to local law enforcement agencies; however, an acceptable compromise in some jurisdictions might allow for the transfer of non-military grade equipment, such as desks and computers.¹² Regardless of the policy on the type of equipment that may be transferred, local elected officials can establish robust processes to ensure oversight, accountability, and community input.

The below criteria are from the ACLU's model bill, "An Act to Promote Transparency, the Public's Welfare, Civil Rights, and Civil Liberties In All Decisions Regarding The Funding, Acquisition, and Deployment of Military and Surveillance Equipment,"¹³ and supplemented with conversations with policy experts from the ACLU and One Thousand Arms.

Best Practices: Oversight of SWAT Use Policies

Local elected officials can also play an oversight and advocacy role by pushing police departments to adopt strong local policies around SWAT deployment. The below criteria are from the ACLU's recommendations to city and county governments and law enforcement agencies around SWAT deployment, from the report "War Comes Home."¹⁴

Best Practices: Police Interactions with Protestors

Elected officials can pass local legislation to oversee the deployment and practices of police during First Amendment-protected activities, such as protest. The following criteria was derived from Board Bill 134 in St. Louis, MO¹⁵ and informed by conversations with policy experts from the ACLU.

DEMILITARIZATION: Oversight of Military Equipment Transfers

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Local legislation should mandate city/county council approval for military and surveillance equipment funding, acquisition, or deployment. 	<ul style="list-style-type: none"> Does the legislation mandate that the city/county must obtain council approval for: <ul style="list-style-type: none"> funding for new military or surveillance equipment (including grant applications, donations and other off-the-books funding sources, and accepting state/federal transfers)? acquiring or borrowing new military equipment? deploying or using new or existing military or surveillance equipment? entering into agreements to share or use military or surveillance equipment/data? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div> <div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div> <div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Law enforcement should have to articulate a clear need for the equipment. 	<ul style="list-style-type: none"> Does the legislation require that law enforcement articulate the reason that a specific concern cannot be addressed safely without access to the required equipment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> The public should have opportunities to provide input. 	<ul style="list-style-type: none"> Does the legislation mandate that equipment requests be considered and approved only through open public hearings at which the public is given the opportunity to provide testimony? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local legislation

DEMILITARIZATION: Oversight of Military Equipment Transfers

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Local legislation should require that the city/county provide an impact report for all proposals to acquire new funding for or transfers of military and surveillance equipment. 	<ul style="list-style-type: none"> As part of council approval, is the city/county required to produce a legally enforceable report assessing the impact of the potential new military and surveillance equipment, and what civil rights and liberties safeguards will be implemented? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the legislation mandate that the report is publically released? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
<ul style="list-style-type: none"> Local legislation should require that the city/county provide a military/surveillance equipment use policy with rules governing data collection, oversight, and public input. 	<ul style="list-style-type: none"> Does the legislation mandate the police produce and the council approve a legally enforceable use policy? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the policy: <ul style="list-style-type: none"> specify the purpose of the proposed equipment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> <ul style="list-style-type: none"> specify the intended uses of the equipment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> <ul style="list-style-type: none"> describe a training program and associated costs? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> Does the equipment use policy include rules governing: <ul style="list-style-type: none"> data collection? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> <ul style="list-style-type: none"> data protection? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> <ul style="list-style-type: none"> data retention? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> <ul style="list-style-type: none"> data sharing? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> Does the policy describe mechanisms for auditing and/or oversight? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> Does the policy describe a process for the public to register complaints and ask questions? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	

DEMILITARIZATION: Oversight of Military Equipment Transfers

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> The legislation should require that the city/county, produce an annual military/surveillance equipment report for each specific military grade law enforcement equipment acquired or deployed. 	<ul style="list-style-type: none"> Does the legislation require that the annual report: <ul style="list-style-type: none"> summarize how frequently the equipment was used? <input type="checkbox"/> Y <input type="checkbox"/> N _____ summarize where the equipment was deployed? <input type="checkbox"/> Y <input type="checkbox"/> N _____ describe whether/how often the data was shared with external entities? <input type="checkbox"/> Y <input type="checkbox"/> N _____ summarize the results of audits? <input type="checkbox"/> Y <input type="checkbox"/> N _____ summarize the number of complaints and concerns? <input type="checkbox"/> Y <input type="checkbox"/> N _____ analyze any discriminatory or disparate impacts? <input type="checkbox"/> Y <input type="checkbox"/> N _____ report the total costs of operating and maintaining equipment? <input type="checkbox"/> Y <input type="checkbox"/> N _____ 		<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> The legislation should require an annual public report on all equipment. 	<ul style="list-style-type: none"> Does the legislation require that the city/county produce an annual report summarizing requests and approvals for all equipment? <input type="checkbox"/> Y <input type="checkbox"/> N _____ Does the legislation require that the report be made publically available? <input type="checkbox"/> Y <input type="checkbox"/> N _____ Is law enforcement required to publicly list all equipment previously transferred to the department through the 1033 program? <input type="checkbox"/> Y <input type="checkbox"/> N _____ Is law enforcement required to list all funding it receives from the federal government and how it spends the funding? <input type="checkbox"/> Y <input type="checkbox"/> N _____ 		<ul style="list-style-type: none"> Local legislation

DEMILITARIZATION: Oversight of Military Equipment Transfers

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> The legislation should establish an advisory committee to guide city/county decisions about equipment acquisition and use. 	<ul style="list-style-type: none"> Does the legislation establish an advisory committee? 	<div>Y N</div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the committee reflect the diversity of residents? 	<div>Y N</div>	
	<ul style="list-style-type: none"> Does the committee include representation from communities disproportionately targeted through the use of military and surveillance equipment? 	<div>Y N</div>	
<ul style="list-style-type: none"> The legislation should provide for remedies, penalties, and whistleblower protections. 	<ul style="list-style-type: none"> Does the legislation include remedies? 	<div>Y N</div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the legislation include penalties for the violation of the legislation? 	<div>Y N</div>	
	<ul style="list-style-type: none"> Does the legislation include protections for whistleblowers? 	<div>Y N</div>	
<ul style="list-style-type: none"> The legislation should require that, in order to receive equipment, agencies commit to having training standards and protocol. 	<ul style="list-style-type: none"> Does the legislation require that, in order to receive equipment, law enforcement agencies have training standards, including training on community policing, constitutional policing, and community impact? 	<div>Y N</div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the legislation require that agencies agree to protocols on use, supervision, and operation of equipment? 	<div>Y N</div>	

DEMILITARIZATION: Oversight of SWAT Use Policies

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Deployment policy should limit tactical deployments to scenarios in which there is an imminent threat to lives. 	<ul style="list-style-type: none"> Does the policy limit tactical deployment to scenarios in which there is a likelihood that the lives of civilians or police personnel are threatened? 	<div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy (may require a records request)
<ul style="list-style-type: none"> Deployment policy should ensure that every instance of deployment is pre-approved. 	<ul style="list-style-type: none"> Does the policy require that each instance of deployment is pre-approved by a supervisor or other high-ranking official? 	<div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy
<ul style="list-style-type: none"> Deployment policy should require a written planning process for each instance of deployment. 	<ul style="list-style-type: none"> Does the policy require documentation of: <ul style="list-style-type: none"> the need for deployment? how the operation will be conducted? whether children are likely to be involved? whether pregnant women are likely to be involved? whether elderly people are likely to be involved? 	<div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy
<ul style="list-style-type: none"> Deployment policy should require that a trained crisis negotiator is present at each deployment. 	<ul style="list-style-type: none"> Does the policy require that a trained crisis negotiator be present at each instance of deployment? 	<div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy

DEMILITARIZATION: Oversight of SWAT Use Policies

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Deployment policy should require that officers wear body cameras. 	<ul style="list-style-type: none"> Does the policy require that officers wear body cameras during deployment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy
	<ul style="list-style-type: none"> Does the policy include guidelines around retention, access, use, and disclosure of data captured on camera? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
<ul style="list-style-type: none"> Deployment policies should mandate a comprehensive post-deployment record that documents the events that transpired. 	<ul style="list-style-type: none"> Does the policy require a written record documenting: <ul style="list-style-type: none"> the purpose of deployment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	<ul style="list-style-type: none"> Local law-enforcement SWAT-deployment policy
	<ul style="list-style-type: none"> the reason that the situation presented an imminent threat to life? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> whether there was a forcible entry or breach (and if so, the equipment used and for what purpose)? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> whether a distraction device was used (and if so, the equipment used and for what purpose)? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> whether an armored personnel carrier (APC) was used and if so, for what purpose? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> the race, sex, and gender of every individual present during the deployment? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> whether any individuals (or domestic animals) sustained injury or death? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> a list of substances, weapons, or contraband found? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	
	<ul style="list-style-type: none"> a narrative capturing important data not listed above? 	<div> <input type="checkbox"/> Y <input type="checkbox"/> N _____ </div>	

DEMILITARIZATION: Police Interactions with Protestors

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Police officers should be required to seek voluntary compliance before issuing citations or making arrests. 	<ul style="list-style-type: none"> Does the policy require officers to seek voluntary compliance before issuing citations or making arrests? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers should respond to individual unlawful acts, and not by issuing a general order to disperse (thus allowing the assembly to continue). 	<ul style="list-style-type: none"> Does the policy require officers to respond, to the extent reasonably possible, to the unlawful acts of individuals, rather than issuing a general order to disperse? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers should be prohibited from issuing general orders to disperse, except in specific situations. 	<ul style="list-style-type: none"> Does the policy state that officers should be prohibited from issuing general orders to disperse, except when: <ul style="list-style-type: none"> a significant number or percentage of the assembly participants fail to adhere to imposed time, place, and manner restrictions? a significant number or percentage of the assembly participants are engaging in force/violence towards people/property? a public safety emergency has been declared by the mayor? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____ <input type="checkbox"/> Y <input type="checkbox"/> N _____ <input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation

DEMILITARIZATION: Police Interactions with Protestors

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> When issuing dispersal orders, officers must clearly warn participants. 	<ul style="list-style-type: none"> Does the policy require that officers issue at least one clearly audible and understandable order to disperse, using an amplification system? 	<div>Y N</div> <div></div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the policy require that the warning include the consequences of failing to comply? 	<div>Y N</div> <div></div>	
	<ul style="list-style-type: none"> Does the policy require that officers give participants reasonable and adequate time to respond? 	<div>Y N</div> <div></div>	
	<ul style="list-style-type: none"> Does the policy require officers provide a clear and safe route for dispersal and communicate this to participants? 	<div>Y N</div> <div></div>	
	<ul style="list-style-type: none"> Does the policy require that, except when there is imminent danger, officers issue multiple dispersal orders to ensure all participants have heard and understood? 	<div>Y N</div> <div></div>	
<ul style="list-style-type: none"> Dispersal orders should not be enforced with use of force until individuals have reasonable time to response. 	<ul style="list-style-type: none"> Does the policy prohibit use of force until individuals have reasonable and adequate time to leave the area or stop the unlawful, violent behavior? 	<div>Y N</div> <div></div>	<ul style="list-style-type: none"> Local legislation
	<ul style="list-style-type: none"> Does the policy prohibit use of force until at least five minutes after it has been most recently announced? 	<div>Y N</div> <div></div>	

DEMILITARIZATION: Police Interactions with Protestors

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Whenever possible, the police department should make a video or audio recording of the order, made available to the public. 	<ul style="list-style-type: none"> Does the policy require that the police department make a video or audio recording of the order and make it available to the public (whenever possible)? 	<div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> All law enforcement officers employed during assemblies must receive appropriate training. 	<ul style="list-style-type: none"> Does the policy require that all officers employed during assemblies must receive: <ul style="list-style-type: none"> de-escalation training? policing consistent with the First Amendment? 	<div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers should be prohibited from interfering with people who exercise their legal rights to witness and observe. 	<ul style="list-style-type: none"> Does the policy prohibit officers from preventing, interfering, or retaliating against individuals who exercise rights to: <ul style="list-style-type: none"> witness or observe the activity? record or livestream the activity? protest police activity? 	<div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers should be required to obtain supervisory approval before issuing citations or making arrests. 	<ul style="list-style-type: none"> Does the policy require that officers obtain supervisory approval before issuing citations or making arrests? Does the policy require documentation of the approval (as soon as possible)? 	<div>Y</div> <div>N</div> <div></div> <div>Y</div> <div>N</div> <div></div>	<ul style="list-style-type: none"> Local legislation

DEMILITARIZATION: Police Interactions with Protestors

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> Officers should be prohibited from encircling assemblies. 	<ul style="list-style-type: none"> Does the policy prohibit officers from establishing emergency zones by using police lines to circle an assembly of people? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers employed during assemblies should have their names and badge numbers visibly displayed. 	<ul style="list-style-type: none"> Are officers required to visibly display their names and badge numbers? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> The police department should promptly process and release anyone arrested in connection with an assembly. 	<ul style="list-style-type: none"> Does the policy state that the police department must promptly process anyone who is arrested in connection with an assembly and determine if they are eligible for immediate release? Does the policy require that anyone who is not charged with an offense is immediately released? If not released within four hours, does the policy require that an officer with supervisory rank document the reason? 	<input type="checkbox"/> Y <input type="checkbox"/> N _____ <input type="checkbox"/> Y <input type="checkbox"/> N _____ <input type="checkbox"/> Y <input type="checkbox"/> N _____	<ul style="list-style-type: none"> Local legislation

DEMILITARIZATION: Police Interactions with Protestors

Criteria	Questions to Evaluate Your Jurisdiction	Meets Criteria? Y/N/Other:	Where to Look
<ul style="list-style-type: none"> The police department should issue an annual report to the public about arrests made during assemblies. 	<ul style="list-style-type: none"> Does the policy require that the police department issue an annual report containing: <ul style="list-style-type: none"> the number of people who were arrested and eligible for immediate release or not charged with an offense—but were not released within four hours? <input type="checkbox"/> Y <input type="checkbox"/> N _____ the reasons for delay in release? <input type="checkbox"/> Y <input type="checkbox"/> N _____ 		<ul style="list-style-type: none"> Local legislation
<ul style="list-style-type: none"> Officers should adhere to a strict code when using chemical agents. 	<ul style="list-style-type: none"> Does the policy state that officers may only use chemical agents on an individual who has caused/attempted to cause serious physical injury to another person? <input type="checkbox"/> Y <input type="checkbox"/> N _____ Does the policy require officers to provide clear and audible warnings prior to using chemical agents? <input type="checkbox"/> Y <input type="checkbox"/> N _____ Do the warnings include: <ul style="list-style-type: none"> how much time individuals have to leave or stop the behavior? <input type="checkbox"/> Y <input type="checkbox"/> N _____ explanation of a clear exit route to leave the areas? <input type="checkbox"/> Y <input type="checkbox"/> N _____ the consequences for failure to comply? <input type="checkbox"/> Y <input type="checkbox"/> N _____ 		<ul style="list-style-type: none"> Local legislation

Lessons from the Field

Seattle, WA

In 2017, Seattle City Councilmember Lisa Herbold championed and passed a demilitarization policy through city budget legislation, which prohibits the police department from receiving military equipment through the federal 1033 program. Furthermore, the council required the police department to return the majority of equipment received through the program, with the exception of some coveralls, gloves, and a metal utility cabinet.¹⁶

Councilmember Herbold had learned about what councilmembers could do through her participation in the Center for Democracy's Local Progress network. While her bill was not controversial, there were several factors that contributed to the smooth passage of this legislation. When Seattle's then-mayor became embroiled in a scandal and subsequently resigned, there was uncertainty about whether or not there would be a new police chief—and as a result, whether or not current police department policies would change. Herbold was able to leverage the mayoral turnover to argue that the city should codify the policy through legislation. Furthermore, the police chief had already voluntarily ended the department's participation in the 1033 program through departmental policy, beginning in 2015. Herbold also made the case that, because the 1033 program would likely become more robust and attractive to local law enforcement under Attorney General Sessions, the passage of legislation would ensure that the policy would be sustained through changing political tides. And as budget chair that year, Herbold was in an influential position to champion this reform.

During the budget negotiation process, Councilmember Herbold made sure to connect with community groups and advocates to understand their perspective on this issue, including the ACLU and the Community Police Commission. She experienced no opposition from law enforcement or the police union, which ensured passage of the legislation.

According to Herbold, cities should “ensure that the legislative body's intention that we demilitarize our police force is actualized and real, and not left up to the police department to make that determination. A police department that is not militarized is a force that has higher potential and stronger chance to build a better relationship with the broader community.”

St. Louis, MO

In 2017, St. Louis Alderwoman Megan Green introduced Board Bill 134 to protect the First Amendment rights of protesters.¹⁷ The bill would “repeal the city's constitutionally vague ordinance regarding ‘unlawful assembly’” and establish protocols to protect the rights of those “observing, recording or participating in protest activity.”

Alderwoman Green's commitment to protecting the rights of protesters has been informed by personal experience. In 2014, the day after she was elected to office, an unarmed Black teenage boy, VonDerrit Myers, was killed by the police in a neighboring ward. One month later, a grand jury decided not to indict Darren Wilson, the white officer who killed Michael Brown in Ferguson. These events—the latest in a long history of brutality at the hands of the police—fueled a large protest in a neighboring ward, which she attended.

During the protest, a group of about 1,000 activists marched peacefully and blocked traffic on a highway before returning to the city's business district. Once in the business district, the activists witnessed, and successfully stopped, a few isolated acts of vandalism by several young people who had not been participants in the action. Nearly an hour after this transpired, the police drove through the district and tear gassed the protesters in an MRAP (a military vehicle), shooting rubber bullets into the crowd without any warning.

Alderwoman Green took refuge in a nearby coffee shop, along with other protesters and legal observers. At that point, police formed a line that prevented protesters from getting to their cars and threw another can of teargas outside, forcing some protesters to retreat into the shop and bring the fumes inside with them. In all, Alderwoman Green was tear gassed on three separate occasions in the same night—without any warning or notice.

After these events, the owner of the coffee shop and several plaintiffs sued the city on the grounds that its unlawful assembly ordinance is vague and unclear, and that no notice was given before chemical agents were used. A federal judge determined that the police needed to issue fair warnings before dispersing chemicals.

However, in September 2017, protests arose again when Jason Stockley, another white St. Louis police officer, was acquitted after he shot and killed Anthony Smith, a Black man. Police officers aggressively used chemical agents to disperse protests. Once again, activists prevailed when a federal judge ruled that the St. Louis police cannot prevent non-violent demonstrations or use chemical weapons on peaceful protesters. Following this second win in court, activists determined that the injunction should be codified into policy. Alderwoman Green worked with the ACLU of Missouri to draft Board Bill 134 and today is still fighting to pass it through the Board of Aldermen.

Resources

- See the ACLU's model legislation, "An Act To Promote Transparency, the Public's Welfare, Civil Rights, and Civil Liberties In All Decisions Regarding The Funding, Acquisition, and Deployment of Military and Surveillance Equipment": https://www.aclu.org/sites/default/files/field_document/aclu_ccopsm_surveillance_military_equipment_model_bill_september_2017.pdf
- See Board Bill 134 by Ald. Megan Green in St. Louis concerning the rights of protesters: <https://www.stlouis-mo.gov/government/city-laws/board-bills/boardbill.cfm?bbDetail=true&BBID=10899>
- See Seattle's ordinance to decrease the militarization of police activities: <http://seattle.legistar.com/View.ashx?M=F&ID=5695993&GUID=C5174925-176C-468C-9E00-2A471212AAE8>
- See data on transfers made through the 1033 Program: <http://www.dla.mil/DispositionServices/FOIA/EFOIALibrary.aspx>
- See data on the Department of Justice's Justice Assistance Grant (JAG) program: <http://www.ncjp.org/state-agencies>
- Read about the Department of Homeland Security's Homeland Security Grant Program to purchase military-style weapons: <https://www.homelandsecuritygrants.info/GrantDetails.aspx?gid=17162>
- See the ACLU's 2014 Report, "War Comes Home: The Excessive Militarization of American Policing": https://www.aclu.org/sites/default/files/field_document/jus14-warcomeshome-text-rel1.pdf
- See Kara Danksy's article, "Local Democratic Oversight of Police Militarization": http://harvardlpr.com/wp-content/uploads/2016/02/10.1_5_Dansky.pdf
- See "Militarization and police violence: The case of the 1033 program," exploring the relationship between equipment transfers and officer violence: <http://journals.sagepub.com/doi/full/10.1177/2053168017712885>
- Read about the Alameda County Board of Supervisors' vote to end Urban Shield after 2018, the world's largest militarized SWAT training and weapons expo: <http://stopurbanshield.org/in-historic-vote-alameda-county-board-of-supervisors-votes-to-end-highly-militarized-urban-shield-swat-program-after-2018/>

NOTES

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2. Taylor Wofford, “How America’s Police Became an Army: The 1033 Program,” *Newsweek*, August 13, 2014, <http://www.newsweek.com/how-americas-police-became-army-1033-program-264537>; H.R.3230, “National Defense Authorization Act for Fiscal Year 1997,” <https://www.govtrack.us/congress/bills/104/hr3230/text>.
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4. “The Pentagon Finally Details its Weapons-for-Cops Giveaway,” The Marshall Project.
5. Adam Goldman, “Trump to Fully Restore Military Surplus Transfers to Police,” *The New York Times*, August 27, 2017, <https://www.nytimes.com/2017/08/27/us/politics/trump-military-equipment-police.html>.
6. Kara Dansky et al, “War Comes Home: The Excessive Militarization of American Policing,” 2, 3.
7. Kara Dansky et al, “War Comes Home: The Excessive Militarization of American Policing,” 5.
8. Kara Dansky et al, “War Comes Home: The Excessive Militarization of American Policing,” 35.
9. Kanya Bennet, “As We Remember the Militarized Response to the Ferguson Uprising, Trump Says Civilian Police are Making ‘Good Use’ of Military Weapons,” American Civil Liberties Union, August 8, 2017, <https://www.aclu.org/blog/racial-justice/race-and-criminal-justice/we-remember-militarized-response-ferguson-uprising>.
10. Celeste Bott, “St. Louis police would face limits on using pepper spray, tear gas under proposal,” *St. Louis Post-Dispatch*, October 3, 2017, http://www.stltoday.com/news/local/crime-and-courts/st-louis-police-would-face-limits-on-using-pepper-spray/article_17c2c08d-69fa-5bc1-b8d5-6d566f9445fd.html; Joe Sterling, “St. Louis protest police accused of controversial ‘kettling’ tactics,” *CNN*, September 19, 2017, <https://www.cnn.com/2017/09/19/us/missouri-st-louis-kettling/index.html>.
11. Kanya Bennett and Chad Marlow, “Here’s How Communities and City Councils Can Reject Trump’s Militarization of Local Police,” American Civil Liberties Union, <https://www.aclu.org/blog/criminal-law-reform/reforming-police-practices/heres-how-communities-and-city-councils-can>.
12. Kara Dansky, “Local Democratic Oversight of Police Militarization,” *Harvard Law & Policy Review*, Vol. 10, http://harvardlpr.com/wp-content/uploads/2016/02/10.1_5_Dansky.pdf, 72.
13. “Community Control Over Police Surveillance + Militarization and (CCOPS + M) Model Bill,” American Civil Liberties Union, September 2017, <https://www.aclu.org/other/community-control-over-police-surveillance-militarization-ccopsm-model-bill>.
14. Kara Dansky et al, “War Comes Home: The Excessive Militarization of American Policing,” 42.
15. Board Bill No. 134, “Ordinance pertaining to First Amendment Rights Protection,” City of St. Louis, <https://www.stlouis-mo.gov/government/city-laws/board-bills/boardbill.cfm?bbDetail=true&BBID=10899>.
16. Ordinance 125472, Seattle City Council, <http://seattle.legistar.com/View.ashx?M=F&ID=5695993&GUID=C5174925-176C-468C-9E00-2A471212AAE8>.
17. Board Bill No. 134, “Ordinance pertaining to First Amendment Rights Protection.”