

United States Senate

WASHINGTON, DC 20510

February 9, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden:

As you continue to advance common sense reforms to improve police-community relations and deter law enforcement abuses, we urge you to prioritize the demilitarization of law enforcement by limiting the transfer or purchase of certain military equipment for federal, state, tribal, territorial, and local law enforcement agencies. This should include reforms to the Department of Defense's (DoD) program to transfer surplus military equipment to law enforcement agencies—known as the “1033 program”—as well as DoD's program to allow law enforcement agencies to purchase military equipment—known as the “1122 program.” Militarized law enforcement increases the prevalence of police violence without making our communities safer. Now is the moment to make these necessary reforms.

Many types of equipment transferred under the 1033 program have contributed to increasingly militarized law enforcement, which has in turn led to more prevalent police violence.¹ In addition, the militarization of law enforcement creates a culture and a mindset contrary to the mission of the police—to protect and serve.² When law enforcement has access to military equipment, they are more likely to use it, rather than other more appropriate and traditional law enforcement tools.³

In response to widespread calls to demilitarize law enforcement across the country, Congress enacted bipartisan reforms to the 1033 program, prohibiting the transfer of bayonets, grenades, weaponized track combat vehicles, and weaponized drones. These reforms also require law enforcement agencies that receive 1033 equipment to certify that their police officers receive annual training on respect for the rights of citizens under the Constitution and de-escalation of force.

However, these reforms to the 1033 program are just a first step. We urge your administration to support congressional efforts to further reforms to the 1033 and 1122 programs, as well as to limit the use of federal grant funding to purchase military equipment for law enforcement. In the interim, we urge you to take executive action, to prohibit certain types of military equipment from being transferred to or purchased by law enforcement, and to establish accountability and transparency measures for military equipment programs.

¹ Casey Delehanty, Jack Mewhirter, Ryan Welch, Jason Wilks, “Militarization and police violence: The case of the 1033 program,” *Research and Politics*, April-June 2017, <https://journals.sagepub.com/doi/pdf/10.1177/2053168017712885>.

² Arthur Rizer, Emily Mooney, “The Evolution of Modern Use-of-Force Policies and the Need for Professionalism in Policing,” *Federalist Society Review*, 21 May 2020, <https://fedsoc.org/commentary/publications/the-evolution-of-modern-use-of-force-policies-and-the-need-for-professionalism-in-policing>.

³ Arthur Rizer, “Equip Police More Like Batman and Less Like G.I. Joe,” *R Street*, March 2018, <https://www.rstreet.org/wp-content/uploads/2018/04/Corrected-137-1.pdf>.

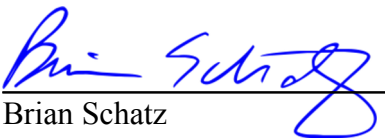
Specifically, these reforms should include:

- 1) Limiting the transfer of weapons of war under the 1033 program, the sale of such equipment under the 1122 program, or the purchase of such equipment using federal grant funding;
 - o Prohibited equipment should include armor-piercing firearms and ammunition, grenades and grenade launchers, explosives, tear gas; and items in the Federal Supply Class of banned items;
- 2) Prohibiting the use of transferred equipment against First Amendment-protected activities, such as the right peaceably to assemble and to petition the government for redress of grievances;
- 3) Requiring recipients of equipment to provide a description of how the equipment will be used; certifying that the equipment is not surplus to their needs and requiring the return of surplus equipment; notifying relevant state and/or local governing bodies and receiving their approval; and returning property if the recipient has engaged in a pattern or practice of civil rights abuses;
- 4) Improving transparency and accountability for transferred or purchased equipment, including a comprehensive accounting of all transferred property, as well as the creation and maintenance of a regularly updated website that displays all the property transferred to date under the 1033 program and which law enforcement agencies have received the property;
- 5) Restoring recommendations established by Executive Order 13688 of 2015, including the reestablishment of the Interagency Law Enforcement Working Group for military equipment transfers, which should include DoD, as well as the Departments of Justice and Homeland Security and other relevant agencies, to improve oversight and compliance;
- 6) Allowing emergency responders, as well as humanitarian and social service nonprofits, to receive surplus property, giving them access to non-lethal equipment—e.g. first aid kits, emergency gear, etc.—to fit their missions; and
- 7) Reviewing the efficacy of the 1033 program and making a recommendation about its future.

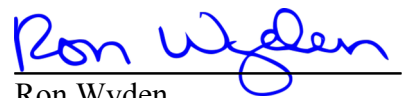
Most of these reforms are supported by a broad, bipartisan coalition of organizations. Ending police militarization is an important part of the broader police reform conversation. Reforms to these programs will help to rebuild trust between communities and the police, while at the same time providing nonprofit organizations with additional resources.

Thank you for your attention to this issue and we look forward to your response.

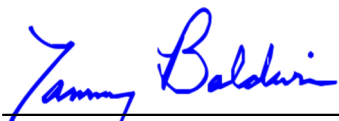
Sincerely,



Brian Schatz
United States Senator



Ron Wyden
United States Senator



Tammy Baldwin
United States Senator



Chris Van Hollen
United States Senator



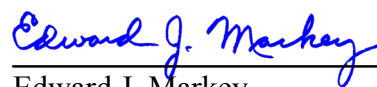
Tina Smith
United States Senator



Elizabeth Warren
United States Senator



Bernard Sanders
United States Senator



Edward J. Markey
United States Senator



Sherrod Brown
United States Senator



Robert P. Casey, Jr.
United States Senator