S. 1441

To prevent the militarization of Federal, State, and local law enforcement by Federal excess property transfers and grant programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Militarizing Law Enforcement Act”.

SEC. 2. ADDITIONAL LIMITATIONS ON TRANSFER OF DEPARTMENT OF DEFENSE PERSONAL PROPERTY TO FEDERAL AND STATE LAW ENFORCEMENT AGENCIES.

(a) ADDITIONAL LIMITATIONS.—
(1) IN GENERAL.—Section 2576a of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking “subsection (b)” and inserting “the provisions of this section”; and

(II) in subparagraph (A), by striking “, including counter-drug and counterterrorism activities”; and

(ii) in paragraph (2), by striking “and the Director of National Drug Control Policy”; 

(B) in subsection (b)—

(i) in paragraph (3), by striking “and” at the end;

(ii) in paragraph (4), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following new paragraphs:

“(5) the recipient certifies to the Department of Defense that it has the personnel and technical capacity, including training, to operate the property; and
“(6) the recipient certifies to the Department of Defense that if the recipient determines that the property is surplus to the needs of the recipient, the recipient will return the property to the Department of Defense.”;

(C) by striking subsection (d); and

(D) by adding at the end the following new subsections:

“(d) LIMITATIONS ON TRANSFERS.—The Secretary of Defense may not transfer under this section any property as follows:

“(1) Weapons, weapon parts, and weapon components, including camouflage and deception equipment, and optical sights.

“(2) Weapon system specific vehicular accessories.

“(3) Demolition materials.

“(4) Explosive ordinance.

“(5) Night vision equipment.

“(6) Tactical clothing, including uniform clothing and footwear items, special purpose clothing items, and specialized flight clothing and accessories.

“(7) Drones.
“(8) Combat, assault, and tactical vehicles, including Mine-Resistant Ambush Protected (MRAP) vehicles.

“(9) Training aids and devices.

“(10) Firearms of .50 caliber or higher, ammunition of .50 caliber or higher, grenade launchers, flash grenades, and bayonets.

“(e) APPROVAL BY LAW REQUIRED FOR TRANSFER OF PROPERTY NOT PREVIOUSLY TRANSFERRABLE.—(1) In the event the Secretary of Defense proposes to make available for transfer under this section any property of the Department of Defense not previously made available for transfer under this section, the Secretary shall submit to the appropriate committees of Congress a report setting forth the following:

“(A) A description of the property proposed to be made available for transfer.

“(B) A description of the conditions, if any, to be imposed on use of the property after transfer.

“(C) A certification that transfer of the property would not violate a provision of this section or any other provision of law.

“(2) The Secretary may not transfer any property covered by a report under this subsection unless author-
ized by a law enacted by Congress after the date of the receipt of the report by Congress.

“(f) ANNUAL CERTIFICATION ACCOUNTING FOR TRANSFERRED PROPERTY.—(1) The Secretary of Defense shall submit to the appropriate committees of Congress each year a certification in writing that each recipient to which the Secretary has transferred property under this section during the preceding fiscal year—

“(A) has provided to the Secretary documentation accounting for all property the Secretary has previously transferred to such recipient under this section; and

“(B) has complied with paragraphs (5) and (6) of subsection (b) with respect to the property so transferred during such fiscal year.

“(2) If the Secretary cannot provide a certification under paragraph (1) for a recipient, the Secretary may not transfer additional property to such recipient under this section, effective as of the date on which the Secretary would otherwise make the certification under this subsection, and such recipient shall be suspended or terminated from further receipt of property under this section.

“(g) CONDITIONS FOR EXTENSION OF PROGRAM.—Notwithstanding any other provision of law, amounts authorized to be appropriated or otherwise made available
for any fiscal year may not be obligated or expended to carry out this section unless the Secretary submits to the appropriate committees of Congress a certification that for the preceding fiscal year that—

“(1) each recipient agency that has received property under this section has—

“(A) demonstrated 100 percent accountability for all such property, in accordance with paragraph (2) or (3), as applicable; or

“(B) been suspended or terminated from the program pursuant to paragraph (4);

“(2) with respect to each non-Federal agency that has received property under this section, the State Coordinator responsible for each such agency has verified that the State Coordinator or an agent of the State Coordinator has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended or terminated from the program pursuant to paragraph (4);

“(3) with respect to each Federal agency that has received property under this section, the Secretary of Defense or an agent of the Secretary has conducted an in-person inventory of the property
transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended or terminated from the program pursuant to paragraph (4);

“(4) the eligibility of any agency that has received property under this section for which 100 percent of the equipment was not accounted for during an inventory described in paragraph (2) or (3), as applicable, to receive property transferred under this section has been suspended or terminated; and

“(5) each State Coordinator has certified, for each non-Federal agency located in the State for which the State Coordinator is responsible that—

“(A) the agency has complied with all requirements under this section; or

“(B) the eligibility of the agency to receive property transferred under this section has been suspended or terminated; and

“(6) the Secretary of Defense has certified, for each Federal agency that has received property under this section that—

“(A) the agency has complied with all requirements under this section; or
“(B) the eligibility of the agency to receive property transferred under this section has been suspended or terminated.

“(h) WEBSITE.—The Defense Logistics Agency shall maintain, and update on a quarterly basis, an Internet website on which the following information shall be made publicly available in a searchable format:

“(1) A description of each transfer made under this section, including transfers made before the date of the enactment of the Stop Militarizing Law Enforcement Act, set forth by State, county, and recipient agency, and including item name, item type, item model, and quantity.

“(2) A list of all property transferred under this section that is not accounted for by the Defense Logistics Agency, including—

“(A) the name of the State, county, and recipient agency;

“(B) the item name, item type, and item model;

“(C) the date on which such property became unaccounted for by the Defense Logistics Agency; and

“(D) the current status of such item.
“(3) A list of each agency suspended or terminated from further receipt of property under this section, including State, county, and agency, and the reason for and duration of such suspension or termination.

“(i) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

“(2) The term ‘agent of a State Coordinator’ means any individual to whom a State Coordinator formally delegates responsibilities for the duties of the State Coordinator to conduct inventories described in subsection (g)(2).

“(3) The term ‘State Coordinator’, with respect to a State, means the individual appointed by the governor of the State to maintain property accountability records and oversee property use by the State.”.
(2) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) Return of Property to Department of Defense.—Not later than one year after the date of the enactment of this Act, each Federal or State agency to which property described by subsection (d) of section 2576a of title 10, United States Code (as added by subsection (a)(1) of this section), was transferred before the date of the enactment of this Act shall return such property to the Defense Logistics Agency on behalf of the Department of Defense.

SEC. 3. USE OF DEPARTMENT OF HOMELAND SECURITY PREPAREDNESS GRANT FUNDS.

(a) Definitions.—In this section—

(1) the term "Agency" means the Federal Emergency Management Agency; and

(2) the term "preparedness grant program" includes—

(A) the Urban Area Security Initiative authorized under section 2003 of the Homeland Security Act of 2002 (6 U.S.C. 604);

(B) the State Homeland Security Grant Program authorized under section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605);
(C) the Port Security Grant Program authorized under section 70107 of title 46, United States Code; and

(D) any other non-disaster preparedness grant program of the Agency.

(b) LIMITATION.—The Agency may not permit awards under a preparedness grant program—

1. to be used to buy, maintain, or alter—
   A. explosive entry equipment;
   B. head and face protection equipment, other than those to be used by certified bomb technicians;
   C. canines (other than bomb-sniffing canines for agencies with certified bomb technicians or for use in search and rescue operations);
   D. tactical or armored vehicles;
   E. long range hailing and warning devices;
   F. tactical entry equipment (other than for use by specialized teams such as Accredited Bomb Squads, Tactical Entry, or Special Weapons and Tactics (SWAT) Teams); or
(G) firearms of .50 caliber or higher, ammunition of .50 caliber or higher, grenade launchers, flash grenades, or bayonets;

(2) to be used to buy, maintain, or alter body armor or ballistic helmets and shields unless the grantee certifies to the Agency that the equipment will not be used for riot suppression.

(c) Review of Prior Receipt of Property Before Award.—In making an award under a preparedness grant program, the Agency shall—

(1) determine whether the awardee has already received, and still retains, property from the Department of Defense pursuant to section 2576a of title 10, United States Code, including through review of the website maintained by the Defense Logistics Agency pursuant to subsection (h) of such section (as added by section 2(a)(1) of this Act);

(2) require that the award may not be used by the awardee to procure or obtain property determined to be retained by the awardee pursuant to paragraph (1); and

(3) require that the award only be used to procure or obtain property in accordance with use restrictions contained within the Agency’s State and
Local Preparedness Grant Programs’ Authorized Equipment List.

(d) Use of Grant Program Funds for Required Return of Property to DoD.—Notwithstanding any other provision of law, the use of funds by a State or local agency to return to the Department of Defense property transferred to such State or local agency pursuant to section 2676a of title 10, United States Code, as such return is required by section 2(b) of this Act, shall be an allowable use of preparedness grant program funds by such agency.

(e) Accountability Measures.—

(1) Audit of Use of Preparedness Grant Funds.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit covering the period of fiscal year 2010 through the current fiscal year on the use of preparedness grant program funds. The audit shall assess how funds have been used to procure equipment, how the equipment has been used, and whether the grant awards have furthered the Agency’s goal of improving the preparedness of State and local communities.

(2) Annual Accounting of Use of Award Funds.—Not later than one year after the date of
the enactment of this Act, the Agency shall develop and implement a system of accounting on an annual basis how preparedness grant program funds have been used to procure equipment, how the equipment has been used, whether grantees have complied with restrictions on the use of equipment contained with the Authorized Equipment List, and whether the awards have furthered the Agency’s goal of enhancing the capabilities of State agencies to prevent, deter, respond to, and recover from terrorist attacks, major disasters, and other emergencies.

SEC. 4. USE OF EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS.

(a) LIMITATION.—Section 501(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(d)) is amended by adding at the end the following:

“(3) The purchase, maintenance, alteration, or operation of—

“(A) lethal weapons; or

“(B) less-lethal weapons.”.

(b) USE OF GRANT FUNDS FOR REQUIRED RETURN OF PROPERTY TO DoD.—Notwithstanding any other provision of law, the use of funds by a State agency or unit of local government to return to the Department of De-
fense property transferred to such agency or unit of local
government pursuant to section 2676a of title 10, United
States Code, as such return is required by section 2(b)
of this Act, shall be an allowable use of grant amounts
under the Edward Byrne Memorial Justice Assistance
Grant Program.

SEC. 5. COMPTROLLER GENERAL REPORT.

(a) IN GENERAL.—Not later than 90 days after the
date of the enactment of this Act, and annually thereafter,
the Comptroller General of the United States shall submit
to Congress a report on Federal agencies, including offices
of Inspector General for Federal agencies, that have spe-
cialized units that receive special tactical or military-style
training or use hard-plated body armor, shields, or hel-
mets and that respond to high-risk situations that fall out-
side the capabilities of regular law enforcement officers,
including any special weapons and tactics (SWAT) team,
tactical response teams, special events teams, special re-
sponse teams, or active shooter teams.

(b) ELEMENTS.—The report required under sub-
section (a) shall include the following elements:

(1) A description of each specialized unit de-
scribed under such subsection.

(2) A description of the training and weapons
of each such unit.
(3) The criteria for activating each such unit and how often each such unit was activated for each year of the previous ten years.

(4) An estimate of the annual cost of equipping and operating each such unit.

(5) Any other information that is relevant to understanding the usefulness and justification for the units.