

Local police boost arsenals with free military weapons

Critics say results deadly; cops point to well-armed criminals, budget cuts.

By [Tom Beyerlein](#), Staff Writer 8:35 PM Saturday, May 5, 2012

Police departments throughout Ohio are stockpiling millions of dollars worth of military gear — from army boots to mini-tanks — through a Defense Department program that provides law enforcement agencies free access to surplus weapons and equipment.

A Dayton Daily News investigation found budget-challenged Ohio departments are increasingly using military surplus to arm and equip their staff — last year acquiring a record \$12 million in equipment and weapons through the Pentagon's 1033 program.

That was more than a third of the \$33 million in surplus gear obtained since the program started in the mid-1990s. On top of that, Ohio police have received more than 6,000 firearms valued at \$2 million, mostly M16 assault rifles.

Law enforcement officials like Maj. Robert Chabali, who heads the Dayton Police SWAT team, said the program gets extra life out of military equipment already purchased with tax dollars while giving police access to equipment they couldn't otherwise afford.

"Everybody's budget is dying," Chabali said.

But critics say the program is fueling an increasing militarization of police that has civil rights and public safety implications. They say heavily armed SWAT teams, originally formed to respond to rare events like sniper and hostage situations, now often are used for routine police work like the execution of search warrants, sometimes resulting in botched raids and even deaths of innocent residents.

A mishandled marijuana raid by a Preble County SWAT team resulted in the 2002 death of Clayton Helriggle, who was shot as he came down a stairway. The SWAT team was later disbanded, and Helriggle's survivors received more than \$500,000 to settle a civil lawsuit.

Ohio SWAT teams have since carried out numerous other controversial raids with tragic consequences. Among them:

- A Mansfield-area SWAT team shot and killed Gilbert Rush in February 2007 after storming his home in an investigation of the alleged theft of baby clothes from Walmart. Rush wasn't the target of the investigation. His survivors filed a civil lawsuit against Mansfield and Richland County that is set for trial in federal court on July 30.
- On Jan. 4, 2008, the Lima SWAT team chose to bust a suspected drug dealer at his girlfriend's home while she and her six children were present. During the forced-entry raid, a SWAT officer shot and killed the unarmed girlfriend, Tarika Wilson, as she held a baby. Police gunfire also wounded the 13-month-old baby in the shoulder and blew off one of the baby's fingers. The city of Lima settled a subsequent lawsuit for \$2.5 million.
- In April 2009, former Ohio State University football player Derrick Foster, a Columbus code enforcement officer, shot and wounded two members of a Columbus SWAT team as they raided a place where Foster was shooting dice. Foster mistook the police for robbers and fired through the door, his attorney said at a hearing. After a plea agreement, Foster was convicted of felonious assault and sentenced to five years in prison.

The "wars" on drugs and terror have led to a troubling blurring of the lines between cops and soldiers, said Shakyra Diaz, policy director for the American Civil Liberties Union of Ohio. "Traditionally, the roles of police and the roles of military have been very different — and for good reason. We cannot have our police looking at members of the community as military combatants."

Formidable tools

Ohio agencies in fiscal 2011 more than doubled their acquisition of surplus items like bulletproof vests, helmets, chemical and biological gas masks, military vehicles,

computers and office furnishings, a Daily News analysis of data from the Ohio Department of Public Safety found.

Police say the program helps law enforcement, especially in small towns, keep pace in an arms race with drug dealers and other criminals. “The criminal element is being armed with better weaponry,” said Englewood Police Chief Mark Brownfield. “We can’t keep using the old tools when the criminal element is using the new tools.” The state data shows 23 police departments, from Toledo to tiny Uhlrichsville, obtained free armored personnel carriers that look like small tanks without cannons, each with an original acquisition cost of \$244,844. The Allen County Sheriff’s Office in Lima has acquired more than \$4.8 million in gear, including \$491,000 worth of laser range finders. The Marion County Sheriff’s Office got a helicopter, and police in Delaware, north of Columbus, got a grenade launcher that can fire tear gas canisters.

In Allen County, a deputy is assigned to spend part of his time running acquisitions of military gear, which is stored at the county fairgrounds. Sheriff Samuel Crish said the 1033 program, which is named for the section of law that created it, has been a windfall for an agency that three years ago had to lay off deputies for the first time in its history. Allen County is second only to the Columbus police in use of the program. “Some of the items we got would be sort of like a wish list for us” if not for the program, Crish said. His office just acquired a Chevrolet Suburban for the K-9 unit, and “we just recently picked up some Hummers we can utilize for drug raids or whatever situation we have. I’m not sure how many we have.”

Nationally, police acquired nearly \$500 million in military surplus items through the program in fiscal 2011, more than double the fiscal 2010 amount of \$212 million, and are on track to match that number in the current fiscal year, according to the Defense Logistics Agency. Much of the gear is used by special weapons and tactics teams. Law enforcement agencies only pay to ship or pick up items.

Tight local budgets have sparked “a tremendous increase in interest in this program,” said DLA spokesman Ken MacNevin of Battle Creek, Mich. “The kinds of multiple-victim casualty incidents that have happened around the country also have been a driver.”

Military officials declare items surplus for a variety of reasons, including obsolescence and change of model, MacNevin said. Some items are nearly new, while others have considerable wear. For example, the government declared some unused

M14 rifles as surplus after the services changed to M16s. Yet some aircraft and Humvees now being offered to police have seen service since the 1980s. “They may have been rode hard and put away wet for a while, but they still have some miles left in ’em,” MacNevin said.

The DLA offers surplus items to police through state liaisons like the Ohio Department of Public Safety that verify the legitimacy of the requestors. The liaisons are tasked with prioritizing requests, so equipment goes to agencies with the greatest anti-drug or anti-terrorism needs, MacNevin said.

“It has to be stuff they use,” he said. “We’re providing surplus military items to support their mission. The expectation is it will be used.”

SWAT teams proliferate

Critics say the expectation that military weaponry will be put to use is part of the problem. Many departments lack the training for the firepower now at their disposal, they argue, ratcheting up the odds of violent confrontations.

“We’ve invested a tremendous amount of firepower among people who are not trained to use it, and of course they’re using it against our own citizens,” said Alphonse Gerhardstein, a Cincinnati attorney specializing in police misconduct cases and a lawyer in the Rush and Wilson lawsuits.

“The law is not protecting citizens from this disproportional use of force.”

The SWAT concept was born out of the inadequate police response to the 1966 University of Texas massacre, in which sniper Charles Whitman fired from the institution’s landmark tower, killing 16 and wounding 31 before being shot by police 90 minutes into the siege. Los Angeles Police Chief Daryl Gates started the first SWAT team later that year. Its first mission was a high-profile confrontation with the Black Panthers in 1969. The team also made headlines in 1974 after successfully ending a standoff with the radical Symbionese Liberation Army. SWAT teams sprung up in major cities, but their mission was limited.

But starting in the 1980s with President Reagan’s war on drugs, SWAT teams proliferated and were increasingly used in forced-entry raids on suspected drug houses, said libertarian researcher Radley Balko in a 2006 Cato Institute report.

“These increasingly frequent raids, 40,000 per year by one estimate, are needlessly subjecting nonviolent drug offenders, bystanders and wrongly targeted civilians to the terror of having their homes invaded while they’re sleeping, usually by teams of heavily armed paramilitary units dressed not as police officers but as soldiers,” Balko wrote. “They have resulted in dozens of needless deaths and injuries, not only of drug offenders, but also of police officers, children, bystanders and innocent suspects.” One of Balko’s recommendations was to “end the Pentagon giveaways. The primary reason so many police departments across the country can afford SWAT teams is the Pentagon’s policy of making surplus military equipment available to those departments for free, or at steep discounts.”

Gerhardstein said it’s not just a matter of undertrained tactical officers. Even if officers are well-trained, he said, SWAT missions can go wrong if team commanders make bad decisions or have flawed policies about when heavily armed SWAT teams are deployed.

“It is a full-time job for the military, and it’s treated as a part-time exercise by the police,” Gerhardstein said. The equipment is driving too many of the decisions. ‘When do we bring in the halftrack?’ It is not standardized.”

Dayton SWAT commander Chabali said the National Tactical Officers Association is trying to standardize tactical training. In September, the group issued a manual of voluntary SWAT training standards for law enforcement agencies.

Chabali, who is a director of the association, acknowledged that some police chiefs object to the standards because the greater emphasis on training would take officers off the streets.

“SWAT is a life-saving tool when properly used, trained and supported,” Chabali said. “We recognize there are some departments that don’t have the proper training time, the proper equipment. We know that on occasion bad decisions are made.” Despite criticism of “the militarization of Mayberry,” Chabali defended the idea of small departments having military gear at their disposal. “The reality is, you’ve got to have the ability and capacity to respond, wherever you are,” he said.

David Oliver, police chief of Brimfield Twp. south of Kent, used the 1033 program to acquire an armored personnel carrier and a Freightliner semi to transport it. He said he requested it because of the 2005 killing spree of James Trimble in Brimfield, who

is now on death row. Trimble killed his girlfriend and her 7-year-old son, then broke into the home of a Kent State University student, killing her during a standoff with local SWAT officers.

Oliver acknowledged that some local residents don't see a need for Brimfield to have the vehicle, which has not been used since it was acquired in 2010.

"I respect that," Oliver said. But "I'd rather have it and not need it than need it and not have it. My job is to be ready. I don't play the odds. That's not how you win at police work and how you keep people safe."

Staff Writer Ken McCall contributed to this report.