



**Testimony for the House Judiciary Committee
March 12, 2015**

HB 338 – Public Safety – SWAT Team – Deployment and Reporting

SUPPORT

The ACLU of Maryland supports HB 338, which would place parameters around the deployment of Special Weapons And Tactics (“SWAT”) teams and reinstate the requirement that law enforcement agencies with SWAT teams report on their deployments. In 2009 the General Assembly passed a law that required agencies with SWAT teams to report on their usage. That law sunsetted in 2014.¹ Due to the enormous implications of the paramilitary operations for civil liberties, public safety resources, and police-community relations, it is important that the public have an understanding of when and why these units are deployed.

Police generally are charged to keep the peace and protect and serve while protecting the rights of individuals through standard rules of due process. SWAT teams, on the other hand, are paramilitary units designed to seek out and overpower the enemy. SWAT teams carry military equipment and receive military training. Yet, they deploy in our neighborhood communities, where the consequences of casual mistakes or overuse can be serious, if not deadly.

This issue hit home in 2008 when Berwyn Heights Mayor Cheye Calvo and his family were innocent victims of a botched SWAT raid by Prince George’s County law enforcement. In Mayor Calvo’s case, law enforcement intercepted a package of marijuana addressed to the mayor’s home and delivered it undercover. Minutes after the mayor took the package inside, a SWAT team burst into his home, shot and killed his two Labrador Retrievers, and bound the mayor and his mother-in-law for nearly two hours of a four-hour ordeal. In the end, the mayor and his family were exonerated of any wrongdoing, and a FedEx driver and accomplice were arrested for stealing unsuspecting identities as part of a drug trafficking scheme.

In 2011, Attorney Barbara Arnwine’s house was invaded by a SWAT team. She, her son and nephew were all held at gun point while the officers raided her house. The police did not produce a warrant. The police threatened to kill them and told them that “the fourth Amendment doesn’t apply here.”²

In Montgomery County a middle-aged father was dragged out of bed by a SWAT team and thrown to the floor; his wrists were jammed into handcuffs and a gun was pressed against his head. The man was never charged with anything.³

¹ Public Safety Article §3-507.

² <http://crooksandliars.com/karoli/voting-rights-advocate-held-gunpoint-swat-t> ;
<http://politic365.com/2011/11/29/pg-county-police-respond-in-arnwine-case-her-attorney-talks/>.

³ http://www.thesentinel.com/mont/index.php?id=707%3Acounty-swat-team-activities-bring-fear&Itemid=766&option=com_k2&view=item.

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These are just a few examples of the thousands of instances where Maryland SWAT teams are deployed. In Fiscal Year 2014, there were 1,689 SWAT deployments in Maryland. On average that means a SWAT team was deployed 4.6 times a day, every day, all year. In 2010, the first time this information was reported, there were 1,618 deployments.⁴

In addition to the concern of the number of times SWAT teams were deployed, is the reason they were deployed. In FY 2014, 93% of SWAT deployments were in connection with the execution of a search warrant. Contrast that with the remaining 7% of deployments for barricade situations, arrest warrants and exigent circumstances – the reasons most citizens think as the purpose of SWAT teams. Furthermore, just over two-thirds of all SWAT deployments involved forcible entry⁵ – forcible entry includes battering rams and other methods of invading someone’s home. SWAT deployments – and the accompanying smashing of doors to enter the house – should be reserved for those situations that call for a tactical, military-style response.

While the prior reporting was informative, it was also incomplete. For example, the reports indicate that 38.5% of deployments were for a Part I Crime, while 59.7% were for a Part II Crime. According to the Governors Office of Crime Control and Prevention, “Part II Crimes can consist of a variation of offenses; however, for the purposes of a SWAT Team most deployments would be activated to recover and seize illegal drugs and other contraband items from the offender.” The reporting must go farther and delineate what Part II Crime is cited for the deployment so that proper oversight may be exercised. There is a vast difference between deploying a SWAT team for several tons of heroin vs. 11 grams of marijuana.

There is no question that SWAT teams are sometimes necessary and appropriate, especially in high-risk situations where there is reason to believe that a suspect is armed or dangerous. But, the risk of violating due process and Fourth Amendment protections against unreasonable searches and seizures is at stake when SWAT teams are deployed in routine law enforcement activities like service of search warrants. HB 338 requires that SWAT teams are used in life-threatening situations and that law enforcement report the information necessary to determine whether this important resource is being used effectively and consistently with civil liberties.

For the forgoing reasons, the ACLU of Maryland supports HB 338.

⁴ First through Fifth Reports to the State of Maryland Under Public Safety Article § 3-507. Found at <http://www.goccp.maryland.gov/msac/law-enforcement.php>.

⁵ Fifth Reports to the State of Maryland Under Public Safety Article § 3-507. Found at <http://www.goccp.maryland.gov/msac/law-enforcement.php> at 8.