



**Written Statement of the American Civil Liberties Union  
Before the U.S. House Armed Services Committee,  
Oversight & Investigations Subcommittee**

*Hearing on*

**“The Department of Defense Excess Property Program in  
Support of U.S. Law Enforcement Agencies:  
An Overview of DOD Authorities, Roles, Responsibilities, and  
Implementation of Section 1033 of the  
1997 National Defense Authorization Act”**

*Thursday, November 13, 2014 at 4:00 p.m.*

*Submitted by the  
ACLU Washington Legislative Office*

For further information, contact Kanya Bennett, Legislative Counsel, at [kbennett@aclu.org](mailto:kbennett@aclu.org).

The ACLU report, *War Comes Home: The Excessive Militarization of American Policing*, is available here: <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>.

The American Civil Liberties Union (ACLU) commends the Oversight and Investigations Subcommittee of the U.S. House Armed Services Committee for holding this hearing on “The Department of Defense Excess Property Program in Support of U.S. Law Enforcement Agencies: An Overview of DOD Authorities, Roles, Responsibilities, and Implementation of Section 1033 of the 1997 National Defense Authorization Act.” For nearly 100 years, the ACLU has been our nation’s guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, DC, for the principle that every individual’s rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

Consistent with this mission, the ACLU is pleased to have this opportunity to submit a statement on the Department of Defense 1033 Program, which provides state and local law enforcement with military weapons and equipment. We are concerned that the 1033 Program, with other federal programs, has resulted in the militarization of American policing. Our concerns are shared in our recent report, *War Comes Home: The Excessive Militarization of American Policing*,<sup>1</sup> which is submitted with this statement. The report contains recommendations for Congress, which we continue to refine as we learn more about these federal programs and the military tactics and equipment recently used in Ferguson, Missouri.

### **Militarized Policing in Ferguson, Missouri**

As the nation watched Ferguson, Missouri, in the aftermath of the death of Michael Brown, it saw a highly and dangerously militarized response by law enforcement. Media reports indicate that the Ferguson Police Department, in conjunction with other state and local agencies, responded to protests and demonstrations with “armored vehicles, noise-based crowd-control devices, shotguns, M4 rifles like those used by forces in Iraq and Afghanistan, rubber-coated pellets and tear gas.”<sup>2</sup> Protestors were denied the right to assemble and a curfew was instituted. Almost a dozen reporters were arrested while exercising their First Amendment rights and other journalists reported being harassed and physically removed by police.<sup>3</sup>

Veterans from the Iraq and Afghanistan wars expressed horror and shock that they, while on active duty overseas, were less heavily-armed and combative than the local police in Ferguson.<sup>4</sup> Domestic and international media equated the images from Ferguson to familiar ones from combat zones in Iraq and Gaza. Law enforcement’s response in Ferguson gave pause to many, and brought the issue of police militarization to national attention, especially in Washington, where President Obama said “[t]here is a big difference between our military and our local law enforcement, and we don’t want those lines blurred.”<sup>5</sup>

Congress responded to the use of military-style equipment, weapons, and tactics in Ferguson with Senator Claire McCaskill calling for immediate de-militarization of the situation in Ferguson and a federal hearing on militarized policing, which she convened on September 9, 2014.<sup>6</sup> Senator Rand Paul described the need to differentiate a “police response and a military response.”<sup>7</sup> Numerous House Members from across the country and from both parties also expressed dismay at the scenes from the St. Louis suburb. Representative Emanuel Cleaver, representing Kansas City, Missouri, commented that recent events in the small town reminded him more of “Fallujah than Ferguson.”<sup>8</sup> In Southern California,

Representative Duncan Hunter, a military veteran and member of the House Armed Services Committee said, “[t]he idea that state and local police departments need tactical vehicles and MRAPs with gun turrets is excessive. Certain resources are designed and manufactured for a military mission—and it should stay that way.”<sup>9</sup>

Representatives Hank Johnson and Raúl Labrador have introduced legislation that responds directly to concerns of militarized policing. The legislation addresses the 1033 Program, which cities like Ferguson are using.<sup>10</sup> In the past two years, the 1033 Program has provided St. Louis County law enforcement agencies, which include the Ferguson Police Department, with military-grade vehicles, military rifles, night vision equipment, an explosive ordinance robot, and more.<sup>11</sup> Senator Tom Coburn has also introduced the Senate version of the Stop Militarizing Law Enforcement Act, which not only addresses 1033, but Department of Justice and Department of Homeland Security grants that allow state and local law enforcement to purchase military weapons and equipment. The bill prohibits certain types of military weapons and equipment from being secured through 1033 and purchased with DHS and DOJ grants.<sup>12</sup>

### **Militarized Policing and the War on Drugs**

Militarized policing is not limited to situations like those in Ferguson or emergency situations—like riots, barricade and hostage scenarios, and active shooter or sniper situations—that Special Weapons And Tactics (SWAT) were originally created for in the late 1960s.<sup>13</sup> Rather, SWAT teams are now overwhelmingly used to serve search warrants in drug investigations, with the number of these teams having grown substantially over the past few decades. Dr. Peter Kraska has estimated that the number of SWAT teams in small towns grew from 20% in the 1980s to 80% in the mid-2000s, and that as of the late 1990s, almost 90% of larger cities had them. The number of SWAT raids per year grew from 3,000 in the 1980s to 45,000 in the mid-2000s.<sup>14</sup>

Our June 2014 report, *War Comes Home: The Excessive Militarization of American Policing*, found that 79% of the incidents reviewed involved the use of a SWAT team to search a person’s home, and more than 60% of the cases involved searches for drugs. We also found that more often in drug investigations, violent tactics and equipment were used. The use of a SWAT team to execute a search warrant essentially amounts to the use of paramilitary tactics to conduct domestic criminal investigations in searches of people’s homes. This sentiment is shared by Dr. Kraska, who has concluded that “[SWAT teams have] changed from being a periphery and strictly reactive component of police departments to a proactive force actively engaged in fighting the drug war.”<sup>15</sup>

The ACLU report highlighted the story of Jose Guerena, a 26-year-old Iraq war veteran, who was shot 22 times and killed by a SWAT team while they were raiding neighborhood homes in search of drugs. Mr. Guerena was sleeping after having worked the graveyard shift at the Asarco Mission mine in Tucson, Arizona. At 9:30 a.m., his wife woke him because she heard strange noises and saw the outline of a man standing outside the window. Mr. Guerena asked his wife to take their 4-year-old son and hide in a closet. With the safety on, Mr. Guerena took his rifle and went to investigate. A SWAT team fired 71 shots at Mr. Guerena, with 22 entering his body. He died on his kitchen floor without medical attention. No drugs were found in the Guerenas’ home.<sup>16</sup>

Just as the War on Drugs has disproportionately impacted people and communities of color, we have found that the use of paramilitary weapons and tactics also primarily impacts people of color. Of the people impacted by SWAT deployments for warrants examined by the ACLU, at least 54% were

minorities. When data was examined by agency (and with local population taken into consideration), racial disparities in SWAT deployments were extreme. In every agency, African Americans were disproportionately more likely to be impacted by a SWAT raid than whites, sometimes substantially so. For example, in Allentown, Pennsylvania, African Americans were nearly 24 times more likely to be impacted by a SWAT raid than whites were, and in Huntington, West Virginia, African Americans were 37 times more likely. Further, in Ogden, Utah, African Americans were 40 times more likely to be impacted by a SWAT raid than whites were.<sup>17</sup>

The ACLU report also featured the story of Tarika Wilson, a 26-year-old African American mother who was shot and killed by SWAT officers while she was holding her infant son. Ms. Wilson was not the suspect. The SWAT team had been looking for Ms. Wilson's boyfriend on suspicion of drug dealing when they raided Ms. Wilson's rented house on the Southside of Lima, Ohio, the only city with a significant African-American population in a region of farmland.<sup>18</sup> And in the majority African American city of Detroit, Aiyana Stanley-Jones – a 7-year-old African American child – was killed when a SWAT team threw a flash-bang grenade into the living room where she slept, then burst into the living room and fired a single shot that struck her.<sup>19</sup>

### **Military Equipment Used by State and Local Law Enforcement**

The military-style equipment, weapons, and tactics being used to conduct ordinary law enforcement activities best demonstrate militarized policing in the United States. We should be concerned that the equipment, weapons, and tactics that can be acquired and used through the 1033 Program include:

- Armored Personnel Carriers (APCs), Mine Resistant Ambush Protected vehicles (MRAPs), and other military vehicles that were created to transport infantry and provide protection from shrapnel and small arms fire on the battlefield; it is estimated that over 800 MRAPs and other armored vehicles have been transferred through the Department of Defense's 1033 Program;<sup>20</sup>
- Automatic weapons that are .50 caliber or greater and ammunition; through the 1033 Program, police have received magazines that carry 100 rounds of M-16 ammunition, which allow officers to fire continuously three times longer than usual;<sup>21</sup>
- Aircraft that are combat configured; since 2006, more than 500 military aircraft have been distributed through the 1033 Program;<sup>22</sup>
- Flash-bang grenades and grenade launchers; Bloomington, Georgia, with a population of 2,713, received four grenade launchers through the 1033 Program, for example;<sup>23</sup> and
- Silencers, which soldiers use during raids and sniper attacks to muffle gunfire; police in 38 states have received silencers through the 1033 Program.<sup>24</sup>

### **Federal Programs that Contribute to Militarized Policing**

Federal programs providing equipment transfers and funding have contributed to the militarization of American policing. These programs include the Homeland Security Grant Program (HSGP) and its two main components, the State Homeland Security Program (SHSP) and the Urban Areas Security Initiative (UASI),<sup>25</sup> and the Department of Justice (DOJ) Edward Byrne Memorial Justice

Assistance Grant (Byrne JAG) Program, but for the purposes of this hearing, we will focus on the Department of Defense 1033 Program.

### **Department of Defense 1033 Program**

The 1033 Program, launched in the late 1980s during the height of the so-called “War on Drugs,” authorizes the Department of Defense to transfer military equipment to local law enforcement agencies.<sup>26</sup> Enacted as part of the 1989 National Defense Authorization Act, it initially authorized the transfer of equipment that was “suitable for use by such agencies in counterdrug activities.”<sup>27</sup> In 1996, Congress made the 1033 Program permanent and expanded the Program’s scope to require that preference be given to transfers made for the purpose of “counterdrug and counterterrorism activities.”<sup>28</sup> There are few limitations or requirements imposed on agencies that participate in the 1033 Program. In addition, equipment transferred under the 1033 Program is free to receiving agencies, and what is particularly troubling, is that 36% of the property recently transferred was brand new.<sup>29</sup>

The Department of Defense operates the 1033 Program through the Defense Logistics Agency’s (DLA) Law Enforcement Support Office (LESO), whose motto is “from warfighter to crimefighter.” According to LESO, the Department of Defense has transferred \$5.1 billion worth of equipment through the 1033 Program.<sup>30</sup> Today, the 1033 Program includes more than 17,000 federal and state law enforcement agencies from all U.S. states and territories. The amount of military equipment being used by local and state police agencies has increased dramatically—the value of equipment transferred through the Program went from \$1 million in 1990 to \$324 million in 1995 and to nearly \$450 million in 2013.<sup>31</sup>

In recent months, we learned troubling details about the 1033 Program. The Washington Post reported that our nation’s schools are subject to militarized policing, with the 1033 Program having equipped law enforcement agencies affiliated with at least 120 educational institutions.<sup>32</sup> College campuses are the recipients of 1033 equipment, with at least 124 colleges possessing such equipment, including grenade launchers.<sup>33</sup> And the Associated Press reported that the government has used the 1033 Program to benefit certain law enforcement agencies, even though they were under investigation by the Department of Justice for civil rights violations, and in some cases, subject to consent decrees.<sup>34</sup> In September, the Department of Defense terminated Arizona’s Maricopa County Sheriff’s Office from the 1033 Program for its failure to account for missing weapons.<sup>35</sup>

Additionally, several local law enforcement agencies seeking to return military weapons and equipment to the Department of Defense have been unable to do so. Some agencies have been trying to return equipment for years. One county sheriff’s department in Washington State has been trying to return armored vehicles since 2004 with no success. Some agencies pursuing returns in the wake of the Ferguson troubles have found that they can get rid of unwanted weapons and equipment only if they transfer it to another local agency.<sup>36</sup>

### **Lack of Federal Oversight**

The militarization of policing in the United States has occurred with almost no public and very little government oversight. The federal agencies implementing programs that provide state and local law enforcement with military weapons and equipment, and the Congressional committees charged with oversight of the agencies, have offered limited accounting of these programs.

Some oversight of the 1033 Program exists, with the Department of Defense Law Enforcement Support Office (LESO) state coordinators providing limited accountability. It appears these state coordinators rarely deny requests for equipment and cannot impose consequences for overly aggressive use of equipment. There appears to be no requirement that the Department of Defense make any certification to Congress regarding the performance or impact of the Program. In addition, agencies are permitted to transfer equipment obtained through the 1033 Program to other agencies. The ACLU uncovered numerous examples of state and local law enforcement agencies transferring equipment that they had obtained through the 1033 Program. There do not appear to be any limitations on or oversight of this practice.<sup>37</sup>

The September 9th Senate oversight hearing, convened in response to the militarized incidents in Ferguson, provided insights into the 1033 Program. One-third of the equipment transferred through the Program is new equipment.<sup>38</sup> Twelve thousand bayonets have been given to state and local law enforcement through 1033, but the purpose for such distribution could not be determined.<sup>39</sup> Hearing witnesses also revealed a lack of communication and coordination between the Department of Defense and the other agencies providing funding to local agencies for military equipment.<sup>40</sup> Ultimately, however, the hearing raised more questions than it provided answers.

### **Recommendations for Congress**

The federal government should rein in programs that incentivize local police to engage in excessively militarized tactics, especially in drug cases. The federal government holds the purse strings, and restricting the flow of federal funds and military-grade equipment into states and localities, and conditioning funds on the appropriate use of such equipment and training, would significantly reduce the overuse of hyper-aggressive tactics and military-grade tools in local communities.

Though this hearing and statement focus on the 1033 Program, we would like to share all of our current recommendations with respect to the militarization of state and local police. We will continue to refine these recommendations as we learn more about these federal programs and in light of the military tactics and equipment recently used in Ferguson:

- (1) Congress should impose a moratorium on the 1033 Program while DOD is reviewing the Program. Congress could include this moratorium in the final compromise FY15 National Defense Authorization Act. Recent concerns with the 1033 Program suggest that a moratorium would allow the Department of Defense to take stock of the Program more accurately. A halt on transfers would enable documenting of equipment transfers, both from the Department of Defense and among local law enforcement agencies, accounting of inventory, and otherwise assessing the scope and function of the Program. A moratorium would provide greater room for solutions, rather than generate new concerns with a program that continues to operate without transparency and safeguards. A moratorium on the 1033 Program would not be unprecedented. The Defense Logistics Agency (DLA), the entity responsible for disposing of excess property received from the military services, instituted a moratorium on weapons transfers in May 2012. The 17 month moratorium was in response to reports of missing equipment and inappropriate weapons transfers.
- (2) Congress should not expand the 1033 Program as proposed in the House passed FY15 National Defense Authorization Act in Sections 1072 and 1085. Section 1072 would expand the 1033 Program preferences, which are currently “counter-drug activities” and “counter-

terrorism activities,” to include “border security activities.” Section 1085 reiterates that expansion with a 1033 Program preference for agencies “that plan to use such eligible equipment primarily for the purpose of strengthening border security along the international border between the United States and Mexico.” Given the Administration’s current review of the 1033 Program and other federal resources that provide state and local law enforcement with military weapons and equipment, expansion of the 1033 Program should not be considered at this time. Present concerns with how militarized policing is being used to carry out the “War on Drugs” and border enforcement suggest the need for limiting the 1033 Program rather than expanding it.

- (3) Congress should impose strict limits on the 1033 Program, including prohibiting the transfer of automatic or semi-automatic rifles, APCs, or other military weapons and equipment not suitable for law enforcement purposes; eliminating the preference for “counter-drug” operations; and requiring the Secretary of Defense to submit an annual written certification that each agency participating in the 1033 Program has provided documentation accounting for all equipment transferred to the agency. The Secretary of Defense should be required to prohibit additional transfers to any agency for which the Secretary cannot provide such certification.
- (4) Congress should condition state and local law enforcement agencies’ receipt of federal funds on an agreement not to use the funds to purchase automatic or semi-automatic rifles, APCs, or other military weapons and equipment not suitable for law enforcement purposes. This condition should be applied to grants made through the Department of Homeland Security’s Homeland Security Grant Program, the Department of Justice’s Byrne JAG Program, and all other funding streams through which money is transferred from the federal government to state and local law enforcement agencies.
- (5) Congress should require state and local law enforcement to use Byrne JAG and Homeland Security Grant Program dollars to purchase body cameras for SWAT officers. Body cameras would create a public record of SWAT deployments and serve as a check against unnecessarily aggressive tactics. Body cameras can be distinguished from other privacy-invading cameras in public places because of their potential to serve as a check on police overreach. Any policy requiring SWAT officers to wear body cameras should incorporate rigorous safeguards regarding data retention, use, access, and disclosure.<sup>41</sup> Body cameras cannot be the only check on militarized policing, and should be coupled with other reforms to federal programs.
- (6) Because militarized policing is being used to carry out the “War on Drugs,” Congress should investigate whether the Byrne JAG program is skewing police priorities, in particular toward increasing low-level drug arrests. In addition, Congress should encourage DOJ, and specifically BJA, to issue clear guidance to State Administering Agencies (SAAs) and local law enforcement agencies affirming that JAG priorities include eliminating unnecessary incarceration while promoting public safety and reducing unwarranted racial disparities in arrest rates. Congress should also require BJA to mandate that grantees and sub-grantees (agencies that receive funding directly from BJA and agencies that receive funding through an SAA, respectively) include the following data in their quarterly and annual reports:

- (a) Demographic data, specifically, race, age, gender, and ethnicity for all arrests reported. Race data should include the following categories: White, Black or African American, American Indian and Alaska Native, Asian, and Native Hawaiian and other Pacific Islander. Ethnicity data should indicate whether or not the arrestee was Hispanic/Latino;
- (b) The address/location of all arrests reported;
- (c) The total number of individuals who reside in the area over which the sub-grantee exercises jurisdiction, as well as the racial demographics of this population; and
- (d) Offense category for drug arrests, specifically, to differentiate drug sale or trafficking arrests from drug possession arrests. Type of drug should also be reported (e.g., X cocaine sale arrests or X marijuana possession arrests).

- (7) As militarized policing appears to be carried out in a racially biased way, Congress should pass the End Racial Profiling Act, which would require state or local governmental entities or state, local, or tribal law enforcement agencies that apply for grants under the Byrne JAG Program and the Cops on the Beat Program to certify that they maintain adequate policies and procedures for eliminating racial profiling and have eliminated any existing practices that permit or encourage racial profiling.

## Conclusion

American policing has become excessively militarized through the use of weapons and tactics designed for the battlefield. Militarization unfairly impacts people of color and undermines individual liberties, and it has been allowed to happen in the absence of any meaningful public discussion or federal government oversight. The use of paramilitary weapons and tactics to conduct ordinary law enforcement—especially to wage the failed War on Drugs and most aggressively in communities of color—has no place in contemporary society. It is not too late to change course. Through greater transparency, more oversight, policies that encourage restraint, and limitations on federal incentives, we can foster a policing culture that honors its mission to protect and serve, not to wage war.

---

<sup>1</sup> ACLU, “War Comes Home: The Excessive Militarization of American Policing,” June 23, 2014, *available at* <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>.

<sup>2</sup> David Nakamura & Niraj Chokshi, *Obama orders review of military equipment supplied to police*, WASH. POST, Aug. 23, 2014, *available at* [http://www.washingtonpost.com/politics/obama-orders-review-of-military-equipment-supplied-to-police/2014/08/23/6316b8aa-2b03-11e4-8593-da634b334390\\_story.html](http://www.washingtonpost.com/politics/obama-orders-review-of-military-equipment-supplied-to-police/2014/08/23/6316b8aa-2b03-11e4-8593-da634b334390_story.html) (last visited Nov. 6, 2014).

<sup>3</sup> Brian Stetler, *6 more journalists arrested in Ferguson protests*, CNN, Aug. 19, 2014, *available at* <http://www.cnn.com/2014/08/19/us/ferguson-journalists-arrested/> (last visited Nov. 6, 2014).

<sup>4</sup> Matthew Farwell, *What combat veterans see in Ferguson, Missouri*, VANITY FAIR, Aug. 16, 2014, *available at* <http://www.vanityfair.com/online/daily/2014/08/veterans-ferguson-matthew-farwell> (last visited Nov. 6, 2014).

<sup>5</sup> Erin McPike & Jessica Ravitz, *Obama orders review of military equipment sales to police*, CNN, *available at* <http://www.cnn.com/2014/08/23/politics/military-equipment-police-review/> (last visited Nov. 6, 2014).

<sup>6</sup> Ed O’Keefe, *McCaskill to chair Ferguson-themed hearing on militarization of police*, WASH. POST, Aug. 28, 2014, *available at* <http://www.washingtonpost.com/blogs/post-politics/wp/2014/08/28/mccaskill-to-chair-ferguson-themed-hearing-on-militarization-of-police/> (last visited Nov. 6, 2014).

<sup>7</sup> Rand Paul, *We must demilitarize the police*, TIME, Aug. 14, 2014, *available at* <http://time.com/3111474/rand-paul-ferguson-police/> (last visited Nov. 6, 2014).

<sup>8</sup> Johnathan Topaz, *Emanuel Cleaver: Ferguson looks like Fallujah*, POLITICO, Aug. 19, 2014, *available at* <http://www.politico.com/story/2014/08/emanuel-cleaver-ferguson-reaction-110139.html> (last visited Nov. 6, 2014).



- 
- <sup>9</sup> Chris Jennewein, *Rep. Hunter criticizes police use of battlefield equipment*, TIMES OF SAN DIEGO, Aug. 17, 2014, available at <http://timesofsandiego.com/politics/2014/08/17/rep-hunter-criticizes-police-use/> (last visited Nov. 6, 2014).
- <sup>10</sup> Stop Militarizing Law Enforcement Act, H.R. 5478, 113th Cong. (2014). The ACLU supports this legislation that responds to serious concerns with the Department of Defense 1033 Program, but believes that other reforms are needed as indicated in the Recommendations section of this statement.
- <sup>11</sup> Taylor Wofford, *How America's police became an army*, NEWSWEEK, Aug. 13, 2014, available at <http://www.newsweek.com/how-americas-police-became-army-1033-program-264537> (last visited Nov. 6, 2014).
- <sup>12</sup> Stop Militarizing Law Enforcement Act, S. 2904, 113th Cong. (2014).
- <sup>13</sup> Daryl Gates, *Chief: My Life in the LAPD* (New York: Bantam, 1992), p. 131. For an excellent summary of the creation and evolution of SWAT, see Radley Balko, *Rise of the Warrior Cop* (New York: PublicAffairs, 2013).
- <sup>14</sup> Peter Kraska, "Militarization and Policing—Its Relevance to 21<sup>st</sup> Century Police," *Policing* (2007) 1 (4) 1-13 (Jan. 1, 2007), p. 6.
- <sup>15</sup> *Id.* at 7.
- <sup>16</sup> *See supra*, note 1 at 17.
- <sup>17</sup> *See supra*, note 1 at 36-37.
- <sup>18</sup> *See supra*, note 1 at 5.
- <sup>19</sup> *See supra*, note 1 at 21.
- <sup>20</sup> Matt Apuzzo, *War gear flows to police departments*, N.Y. TIMES, June 8, 2014, available at [http://www.nytimes.com/2014/06/09/us/war-gear-flows-to-police-departments.html?\\_r=01](http://www.nytimes.com/2014/06/09/us/war-gear-flows-to-police-departments.html?_r=01) (last visited Nov. 6, 2014).
- <sup>21</sup> *Id.*
- <sup>22</sup> *Id.*
- <sup>23</sup> *See supra*, note 11.
- <sup>24</sup> *See supra*, note 20.
- <sup>25</sup> U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties, *Civil Rights/Civil Liberties Impact Assessment: DHS Support to the National Network of Fusion Centers*, 6 (March 1, 2013), available at [https://www.dhs.gov/sites/default/files/publications/DHS%20Support%20to%20National%20Network\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/DHS%20Support%20to%20National%20Network_0.pdf) (last visited Nov. 6, 2014).
- <sup>26</sup> *See* 10 U.S.C. § 2576a.
- <sup>27</sup> *See* National Law Enforcement and Corrections Technology Center, *Federal Property and Equipment Manual: Federal Sources of Personal Property for Law Enforcement*, 2 (Revised 2002), available at <http://info.publicintelligence.net/FederalPropertyManual.pdf> (last visited Nov. 6, 2014).
- <sup>28</sup> *Id.* at 3.
- <sup>29</sup> Defense Logistics Agency, "Fact Sheet: Responses on Excess Property Program for Representative Henry Johnson," sent in response to an inquiry from Representative Johnson requesting additional information on military-grade equipment to civilian police, Jan. 14, 2014.
- <sup>30</sup> Defense Logistics Agency, Disposition Services, "Law Enforcement Support Office (LESO): Providing Support to America's Law Enforcement Community Since 1997," available at <https://www.dispositionservices.dla.mil/rtd03/leso>, Jan. 23, 2014 (last visited March 17, 2014). An attempt to visit this webpage was made on November 6, 2014, but it is no longer available; Defense Logistics Agency, Disposition Services, "About the 1033 Program: The Law Enforcement Support Office," available at <http://www.dispositionservices.dla.mil/leso/pages/default.aspx> (last visited Nov. 6, 2014).
- <sup>31</sup> *Id.*
- <sup>32</sup> Niraj Chokshi, *School police across the country receive excess military weapons and gear*, WASH. POST, Sept. 16, 2014, available at <http://www.washingtonpost.com/blogs/govbeat/wp/2014/09/16/school-police-across-the-country-receive-excess-military-weapons-and-gear/> (last visited Nov. 6, 2014).
- <sup>33</sup> Dan Bauman, *Campus police acquire military weapons*, N.Y. TIMES, Sept. 21, 2014, available at <http://www.nytimes.com/2014/09/22/world/americas/campus-police-acquire-military-weapons.html> (last visited Nov. 6, 2014).

---

<sup>34</sup> Tami Abdollah & Eric Tucker, *Feds censure local police, yet give lethal weapons*, AP, Sept. 21, 2014, available at <http://bigstory.ap.org/article/911e03ab250d42f7b245f707576ac5d0/feds-censure-local-police-yet-give-lethal-weapons> (last visited Nov. 6, 2014).

<sup>35</sup> Mike Sunnucks, *Feds: Lost weapons prompted termination of military equipment deal with Arpaio*, PHOENIX BUSINESS JOURNAL, Sept. 11, 2014, available at <http://www.bizjournals.com/phoenix/news/2014/09/11/feds-lost-weapons-prompted-termination-of-military.html> (last visited Nov. 6, 2014).

<sup>36</sup> Molly Redden, *Police want to get rid of their Pentagon-issued combat gear. Here's why they can't*. MOTHER JONES, Sept. 30, 2014, available at <http://www.motherjones.com/politics/2014/09/police-departments-struggle-return-pentagon-military-surplus-gear> (last visited Nov. 6, 2014).

<sup>37</sup> See *supra*, note 1 at 30.

<sup>38</sup> Tim Devaney, *Senators blast DOD program that 'militarized police'*, THE HILL, Sept. 9, 2014, available at <http://thehill.com/regulation/217136-senators-blast-dod-program-to-militarize-police> (last visited Nov. 6, 2014).

<sup>39</sup> Bonnie Kristian, *Rand Paul: Obama should be able to figure out if police need bayonets*, THE WEEK, Sept. 10, 2014, available at <http://theweek.com/speedreads/index/267873/speedreads-rand-paul-obama-should-be-able-to-figure-out-if-police-need-bayonets> (last visited Nov. 6, 2014).

<sup>40</sup> Niraj Chokshi & Sarah Larimer, *Ferguson-style militarization goes on trial in the Senate*, WASH. POST, Sept. 9, 2014, available at <http://www.washingtonpost.com/blogs/govbeat/wp/2014/09/09/ferguson-style-militarization-goes-on-trial-in-the-senate/> (last visited Nov. 6, 2014).

<sup>41</sup> Specific recommendations for how to implement such safeguards are set forth in an article by ACLU Senior Policy Analyst Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All" (Oct. 2013), available at [https://www.aclu.org/files/assets/police\\_body-mounted\\_cameras.pdf](https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf) (last visited Nov. 6, 2014).