



Testimony of Chief Jim Bueermann (Ret.), Redlands, CA  
President, Police Foundation, Washington, D.C.

Committee on Armed Services  
Subcommittee on Oversight and Investigations  
U.S. House of Representatives

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

Mr. Chairman, Ranking Member Tsongas and distinguished members of the Subcommittee, thank you for this opportunity to appear before you to discuss the very important topic of the Department of Defense’s Section 1033 program that provides surplus equipment to our civilian police forces.

**Introduction**

My name is Jim Bueermann and I am the president of the Police Foundation and the former Chief of Police for the City of Redlands, California. The Police Foundation, established in 1970 by the Ford Foundation, is America’s oldest non-membership, non-partisan police research organization. Our mission is to advance democratic policing through innovation and science. We conduct rigorous scientific research, provide technical assistance and conduct critical incident reviews that help the police across the country become more effective.

Determined to address the challenges of policing in an ever-changing world, the Police Foundation did much of the research that led to a questioning of the traditional model of professional law enforcement and toward a new view of policing – one emphasizing a community orientation – that is widely embraced today. Seminal foundation research on issues such as police patrol practices, women in policing, use of force by police, and the police response to domestic violence has transformed policing in profound ways. The foundation has been committed to disseminating science and evidence-based practices to the field as a means of advancing democratic policing. My testimony reflects these principles.

Prior to my work with the Foundation I served for a year as an Executive Fellow at the U.S. Department of Justice's National Institute of Justice where I worked to translate scientific evidence for police practitioners. Prior to that, I was a police officer in Redlands, California for 33 years – the last 13 years serving as the Chief of Police and Director of Housing, Recreation and Senior Services. I retired from the department in 2011. I have extensive experience and expertise in community policing. During my tenure as police chief, for example, the Redlands Police Department incorporated Redlands' recreation, housing and senior programs as part of its evidence based community policing and problem solving strategy that focused on risk and protective factors. In 2000, this policy was judged one of the 25 most innovative governmental programs in America by the "Innovations in American Government" program sponsored by Harvard's Kennedy School and the Ford Foundation.

### **The 1033 Program and Tactical Equipment for Law Enforcement**

Like many Americans, I have been closely following the events in Ferguson, Missouri. Among the many aspects of the national discussion of Ferguson includes the "militarization" of this country's police forces. One focal point of this discussion has been the Department of Defense's "Section 1033 Program" that transfers surplus military equipment to local police departments, and I applaud this committee for holding today's hearing as part of its ongoing oversight efforts of this program.

I believe most community policing experts will agree that the equipment itself is not as problematic as the context and situation in which it is used. In fact, the 1033 Program and other federal programs provide valuable equipment to law enforcement nationwide – but they need to be closely examined to ensure appropriate surplus equipment is transferred in a thoughtful manner with adequate guidelines in place.

Few people would argue that the police need the means to keep themselves safe and apprehend or stop heavily armed and violent bank robbers, for example; most would not object to a police SWAT team using an armored vehicle to stop them. In contrast, the same SWAT team, using the same armored vehicle to "control" vocal, yet peaceful protestors would be considered highly offensive. It is context - not specific equipment or tactics – that is one of the most important variables in determining whether the use of military-style equipment in policing is appropriate or not. And a law enforcement agency's transparent, accountable and collaborative relationship with its community relates to the degree to which people agree with the police position on "appropriate context."

During my career in Redlands the police department used the Department of Defense's 1033 Program to acquire surplus equipment. This included several M16 rifles for the department's SWAT Team, pick-up trucks, utility vehicles, desks, tables and filing cabinets for our community policing stations and miscellaneous office equipment used by our recreation, housing and senior services units. Since my retirement, the department has acquired a Mine Resistant Ambush Protected armored vehicle (MRAP).

The 1033 Program ensures that our taxpayers do not have to pay for these resources twice. As you review this program and consider possible changes, I urge you to consider its benefits to taxpayers and law enforcement, especially given the challenging budget environment many state and local governments are experiencing. There has been substantial positive impact on public safety and officer safety from 1033 and other programs that provide surplus equipment to law enforcement. For example:

- Several weeks ago, the Cook County Illinois Sheriff’s Department used armored vehicles to get officers to the scene and extract six children and two adults being held hostage after a home invasion. Two officers were shot during the 20-hour standoff, but the equipment prevented further injury to law enforcement and helped with the safe recovery of the hostages.
- Armored Personnel Carriers (APCs) and MRAPs have been used to affect snow and water rescues in Brunswick, Ohio. The high axle clearances these vehicles have afford rescuers the means by which to traverse deep snow or rushing water to get to stranded victims.
- The Las Vegas, Nevada Metropolitan Police Department receives 1033 Program Surplus Property. The majority of items, 75 percent to 80 percent are aircraft parts that are used to maintain the two surplus HH-1H rescue helicopters, which are used primarily for mountain rescues of injured hikers, hoist rescues of persons trapped during the flood season, lost persons and persons requiring medical help. They are also utilized to transport searchers and K-9 Teams to remote locations when searching for missing children. In June and July of 2014 alone, the LVMPD Air Support/Search and Rescue Section utilized rescue helicopters obtained through the 1033 Program 11 times during search and rescue missions in mountainous terrain. In addition, the department used boats obtained through the 1033 Program 6 times for diving/rescue missions at Lake Mead.
- The Pasadena, California police department used 1033 helicopter equipment to completely refurbish its own helicopters which provide air support services for not only Pasadena but the entire San Gabriel Valley in Los Angeles County.

### **Recommendations for the 1033 Program**

The two primary drivers of the public perception and criticism of police “militarization” and the 1033 Program are local law enforcement’s use of armored vehicles and tactical equipment/units. Based on my experience and familiarity with municipal government, community policing and the 1033 Program specifically, I proposes the following changes to the program to ensure it continues to strike a balance between the needs of the police and community interests.

I recommend that pursuant to federal legislation or regulation, every state and local police agency that desires access to surplus military armored vehicles or tactical equipment via DOD's 1033 Program should be required – as part of the application process – to provide proof to the DOD that:

- 1) it has received public input regarding the possible acquisition of the equipment;
- 2) it has obtained approval from its local governing body for the department’s acquisition of the property (except in the case of elected sheriffs);
- 3) it has implemented a publically accessible policy governing the use of armored vehicles and tactical equipment and;
- 4) it makes publically available the number of times and context it utilizes the acquired armored vehicles and tactical equipment.

This requirement can be easily fulfilled by providing:

1. Minutes from a public hearing on the matter proving the community had an opportunity to express its opinion on the issue (for all state, county and local police agencies);
2. A resolution passed by the local elected governing body's approval of the application for local law enforcement agencies (or, in the case of state law enforcement, approval from the governor);
3. Written policies from the law enforcement agency that clearly outline the circumstances under which the surplus armored vehicles and tactical military equipment can be used, and;
4. Public availability of the aforementioned policies and the number of times and context the acquiring department utilized the surplus armored vehicles and tactical equipment. Allowances could be made for anti-terrorism cases or other highly sensitive investigations with the approval of the agency executive.

Because the 1033 property is conveyed to policing agencies "free of charge," there is frequently no local requirement that the policing agency obtain approval from the local governing body in the same way they would be required under local purchasing ordinances for the same equipment if they had to purchase it. The addition of military equipment, such as armored vehicles and tactical equipment, in police departments with little use for them can create budgetary and organizational pressure to use them. Policing leaders who acquire tactical military surplus equipment that is expensive to buy or maintain can feel pressure from city, county or state administrators, or elected officials, to justify the expenditures. This can result in "normalizing" their use in "routine" circumstances and contribute to the militarization of the police.

In my opinion, the requirements I have proposed would not be overly burdensome for the police because they already have to follow a similar procedure for expensive items they currently purchase. In addition, these policies would ensure that local communities have an opportunity to voice their support or opposition to the proposed acquisition, consider the police justification for the equipment and have access to the number of times and context the tactical equipment was used. This community input and law enforcement transparency and accountability is entirely consistent with a fundamental underpinning of community policing, which urges the police to "co-produce" public safety with the community they serve.

I believe it is important that the 1033 Program be retained, albeit with new transparency, accountability and oversight guidelines incorporated. Completely eliminating this program would have substantial impact on public safety and local budgets.

The job of police is to respond to the threats that face our communities each day and protect public safety. Adequate and updated equipment is a necessity to keep both officers and our citizens safe; the equipment needs shift when the safety landscape shifts. For law enforcement agencies with highly constrained budgets, the 1033 Program may be the only means by which they can acquire armored vehicles and tactical equipment or firearms. Unfortunately, there are occasions when these are needed by our civilian police forces. For example:

- In February 1997, two gunmen heavily armed with fully automatic assault rifles robbed a bank in the North Hollywood jurisdiction of the Los Angeles Police Department (LAPD). Patrol officers interrupted the robbery and the robbers immediately began firing at them. Several officers and

civilians were wounded. The officers were outgunned as they were armed only with their handguns and shotguns. When LAPD SWAT officers arrived, armed with assault rifles, the suspects were eventually shot. During the gun battle SWAT officers commandeered an armored truck to protect them while they rescued wounded civilians and officers. After this incident, many police departments, including LAPD, began arming their patrol officers with rifles to counter heavily armed suspects.

- The Los Angeles police recently used an armored “Bearcat” tactical vehicle to protect officers as they apprehended a heavily armed suspect who was firing a high powered rifle at them and had wounded an officer.
- In West Bloomfield, Michigan a suspect barricaded himself in a residential neighborhood and engaged in significant gunfire with law enforcement and ultimately ended up killed police officer Patrick O’Rourke. During the 20-hour standoff, law enforcement used their armored vehicle to safely evacuate neighborhood residents from the area.

Even though the police may periodically use military-like equipment, most would agree that “militarizing” civilian police agencies runs contrary to the American view of democratic policing. The ability of the police to fulfill their public function is dependent on public approval of their actions and confidence in them because community members believe the police treat them in a respectful, fair and equitable manner and use force only when absolutely necessary. Law enforcement agencies across the country strive to find a balance in providing needed tactical resources to police officers while maintaining and strengthening connections to the community and their legitimacy in the eyes of the communities they serve.

## **Conclusion**

I urge the Committee to adopt the transparency and reporting changes to the 1033 Program I have outlined above, which I believe are fair and balanced.

I also urge the Committee to ensure that transfer of surplus military equipment is used to support evidence-based policing strategies and initiatives that law enforcement can use to better policing practices. This will enhance police legitimacy and leverage the taxpayer investment in public safety. It will also help the police better gauge whether they “really” need military surplus armored vehicles and tactical equipment.

Finally, I urge the Committee to support the creation of a national center for conducting critical incident reviews. This will help determine if the 1033 Program is having the kind of impact that Congress intended.

There is much truth to the adage that “those who cannot remember the past are condemned to repeat it.” Just as aviation and the medical profession have mechanisms to learn from mistakes or near misses, so too should American policing have an organized way to take “lessons learned” and make them “lessons applied.” And these lessons can be translated into meaningful changes in the way American policing operates and utilizes the 1033 Program. But this will only happen if there is the will to ensure that the knowledge gained from these tragedies is captured and disseminated in a manner that encourages new learning and sustainable change. One method of accomplishing this is through the use of critical incident

reviews of the type conducted by the Police Foundation after the Southern California “Christopher Dorner Incident” in 2013 (see [www.incidentreviews.org](http://www.incidentreviews.org)). Critical reviews should be conducted after every policing incident in which a life is lost or substantial police use-of-force is used.

It is imperative that the Committee take a balanced view of federal efforts to assist local law enforcement in controlling crime and disorder and doing so in a democratic manner. The perceived “militarization” of the police is problematic in this country and it should be addressed. However, it is important to remember that the police have a tough, dangerous job and need adequate resources to protect their communities and themselves. But, in providing the police with these resources we must never lose sight of the basic tenets of democratic, community-oriented policing that require police transparency and accountability, public input and the co-production of public safety between the police and the communities they serve.