

Boys in Blue Camo: The 1033 Program

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There's a thin, often unclear line between a riot and a protest. Demonstrators perform a tightrope-walking act, balancing their outrage at controversial events with the knowledge that a single misstep can lead to total chaos. In some countries, that chaos manifests itself as military crackdowns by the ruling government, the goal being to jail problematic opposition leaders and scare people out of returning to the streets. The U.S. has a long history of replacing that military force with the presence of local police, but over time that line has become equally blurred. One need only look at the events of Ferguson, Mo. to see that ambiguity in action.

Michael Brown was shot and killed by police officer Darren Wilson Aug. 9, 2014. The following day, Ferguson was flooded by protestors angered by yet another killing of an unarmed black man by a white police officer, and a peaceful candlelight vigil was held to honor Brown, followed by a night of looting and turmoil. The police department responded by sending out more than 300 officers in riot gear. Over the next three days, the country watched as automatic weapons outfitted with rubber bullets replaced batons and riot shields were replaced by Bearcats, massive armored vehicles designed primarily to resist IEDs along the streets of

Iraq. Governor Jay Nixon called in the National Guard a few days later, and tear gas canisters riddled the streets as officers donned their gas masks.¹ This continued for two weeks.

The equipment that the Ferguson police department utilized also fills the armories of other local police departments across the country and has been flowing there for decades. Nearly all of that equipment can be traced back to the same place: the United States Department of Defense. More specifically, it originates from within the Disposition Services department of the United States Government's Defense Logistics Agency (or DLA) and is distributed through a system known as the 1033 program.

Law enforcement during the early 1990s carried a large emphasis on suppression of the growing drug culture. With South American drug imports through the roof and urban crime experiencing a transition from powdered to crack cocaine, the "War on Drugs" was in full swing. It became much easier for criminals seeking to protect their drug supplies to purchase new, stronger weaponry, and as the firepower of the opposition grew and violent crime rates continued to escalate, the

perception that police were being outgunned began to spread. Conversely, America's military, experiencing a period of relative peace that it hadn't enjoyed for some time, was bloated with equipment sitting in warehouses and empty lots across the country. This equipment sat uselessly for years, waiting to be torn apart for scrap.

Congress devised a solution to both problems and tacked it on to the National Defense Authorization Act of 1990 under Section 1208. The passage empowered the Department of Defense (DOD) to sell its surplus equipment and supplies to other federal agencies or state governmental departments, as long it didn't cost the DOD any money.² The only restriction placed on what equipment could be transferred was a requirement that it be useful in "counter-drug activities", but this language was intentionally left vague in order to accommodate both advances in technology and possible changes in the nature of drug-related crimes.

In 1997, Congress passed the National Defense Authorization Act for Fiscal Year 1997, which changed Section 1208 to Section 1033 and officially created the 1033 program, as it is now known. The change widened the focus of the program from counter-drug

activity to general "law enforcement purposes" and expanded access to include law enforcement contractors unrelated to the government as long as they had the authority to make arrests and charge suspects with a crime.³ Requests related to anti-drug and anti-terrorism activities were given preference, but the change made it much easier for police to acquire heavy equipment regardless of intent. Control of the program was moved from the DOD's Pentagon offices to the DLA's National Program Office, which consolidated the existing 1033 agreements under a more streamlined management system.⁴ Finally, in 2009, the 1033 program moved to the Defense Reutilization and Marketing Service (DRMS), which was rebranded as the DLA Disposition Services Law Enforcement Support Office (LESO).

Before dealing with individual police departments, the 1033 program must first enroll the state those departments are in. The governors of interested states must sign a Memorandum of Agreement (essentially a business contract) with the DLA and appoint a state coordinator. State coordinators are tasked with investigating abuses of transferred equipment and maintaining detailed records of how equipment is being implemented by agencies. These records include reports of

misconduct or misuse of equipment on the part of the state, which are sent to the DLA. The DLA will investigate the reports and, if necessary, revoke the transferred equipment. Additionally, the DLA states that it regularly sends out compliance reviewers, members of the LESO staff who directly work with state coordinators "to ensure that property accountability records are properly maintained, minimizing the potential for fraud, waste and abuse."⁵ Once the foundation has been set, local law enforcement agencies must apply for approval by the state coordinator and the LESO to join the program by filling out a simple, one-page application. If approved, agencies are provided with a catalogue of all available equipment they can then apply to receive.

Tactical vehicles (MRAPs, APCs, armored Humvees) are all covered by a one-page application. Aircraft (helicopters, small planes, surveillance crafts) are all covered by a one-page application. Watercraft (RIBs, patrol boats, speedboats) are all covered by a one-page application. Finally, weaponry, including assault rifles, pistols, grenade launchers and tear gas/pepper spray canisters, are all covered by a one-page application.⁶

Along with the simplistic application process, the equipment offered through the 1330 program is generally free, regardless of the market value. Armored vehicles like MRAPs can cost up to \$600,000 to produce, but the military has so many left over after its withdrawal from Iraq and Afghanistan that local agencies can receive one for only the cost of transporting it.⁷ According to an NPR report, more than 600 MRAPs have been sent to local law enforcement agencies within the past year.⁸ Since 2006, the 1033 program has also distributed nearly 80,000 assault rifles, 205 grenade launchers, 12,000 bayonets, 4,000 combat knives, at least \$124 million worth of night-vision equipment, including night-vision sniper scopes, nearly 500 bomb detonator robots, 50 airplanes, including 27 cargo transport airplanes, more than 400 helicopters and more than \$3.6 million worth of camouflage gear and other "deception equipment."⁹ These numbers are distributed across the country, but even with that in mind, they are massive.

The LESO website proudly declares that the 1033 program has, since its inception, transferred more than \$5.1 billion of equipment to law enforcement agencies, \$4.5 million of which occurred in 2013 alone.¹⁰ Without the 1033 program, budget-strapped local police departments

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would certainly be unable to afford this equipment, but the decline of those budgets and the layoffs that have followed over the past few years does raise the question: Who is all of this equipment for? The amount of weaponry and “tactical vehicles” distributed to police has been inversely correlated to the number of police officers for some time, so what is all of this gear meant to accomplish if there aren’t even enough trained officers to use it? Nobody seems to have an answer until a crisis occurs and the streets are filled with fancy new hardware.

Furthermore, while departments must only pay for the price of transportation when first acquiring the equipment, they are ultimately responsible for its maintenance while they are in possession of it. The cost of maintaining tactical vehicles like helicopters and patrol boats can

be extraordinarily high, not to mention the cost of training specialized units to properly staff and operate the units. Equipment they require is also not always new, so police may need to pay to have it repaired or turned into scrap. This cost/benefit imbalance can lead to departments returning equipment they have requested simply because the strained budgets that pushed them to acquire the gear in the first place don’t allow them to uphold those acquisitions. Such a situation is ineffective at accomplishing much of anything.

The actual process of acquiring equipment is quick and efficient, but its simplicity could clearly be problematic. These are weapons designed to kill people and vehicles meant to outrun, overpower and contain militant enemies. This equipment was created for the military to fight

threats to America but now it is being deployed to small towns across the country, and that is cause for concern. The line between citizen and government has shifted from being a badge and pistol to a Kevlar vest and tactical scope-equipped assault rifle, and that change is facilitated by a single-sided piece of paper submitted to an appointed bureaucrat who most of the public doesn't know exists. That is a troubling evolution that sends a bad message to communities. Citizens are expected to trust their police departments, but the DLA refuses to show which agencies are requesting this weapons or vehicles and the records that are available in public records only go as far as county name.¹¹

Ferguson, for instance, is a part of St. Louis County. DLA records would include the total number of armored vehicles and rifles received by every police department within that county, of which there are 58, an abnormally large number.¹² Rather than having access to the amounts of certain pieces of equipment (e.g. grenade launchers) their individual police department has requested, residents of Ferguson would only have access to a grand total that's unevenly divided 58 ways and doesn't include disbursements to the county police department of 750 officers. Citizens must assume that they're safe from both

each other and their militarized police officers despite being generally blind to the size and strength of the law enforcement umbrella under which they live.

The argument given by the government against providing more specific disclosure is that such information would put local departments at risk because criminals with knowledge of the police's weaponry could escalate their own firepower, creating a severe security problem. This directly involves the grander issue of gun control in America — 33 states allow assault weapons to be purchased without showing any form of ID or going through a background check as long as they aren't being sold by a licensed dealer, such as gun show vendors. There are also 43 states allowing assault weapons to be purchased with any form of government ID, and no states limit the number of weapons that a household is allowed to have.¹³ While the public's accessibility to weapons equaling the power of police equipment could conceivably present a threat to police officers, making militarization seemingly necessary, the scale of that militarization should be indexed to the hypothetical threat actually present in that community. There's no need for police departments in small towns where homicides are practically unheard of to be comparable in their preparedness

to that of urban task forces, and the message sent by this over-compensation can severely harm the already fragile sense of trust between communities and their police forces.¹⁴

Complicating the matter is the fact that private law enforcement groups are also covered by the 1033 program. DLA records outlining members of the 1033 program indicate that the police departments of more than 100 different college campuses have enrolled in the program between 2000 and 2014. This number includes large universities, small liberal arts colleges, higher educational systems such as the State University of New York network and nonresidential community colleges.¹⁵ In 2013, Ohio State University acquired an MRAP equipped with a machine gun turret, becoming the first campus police department to do so, and Florida State University received an armored Humvee.¹⁶ These acquisitions came one year after the University of California's Berkeley campus announced plans to request an eight-ton armored truck from the DOD through a Homeland Security grant, but those plans were eventually scrapped in response to public outcry. While all three of these institutions have large populations in the tens of thousands, none of them have at any point experienced the type of

safety threat that these items were designed to deal with. In fact, no American university has ever experienced a situation that these items are designed and necessary to face. David Perry, president of the International Association of Campus Law Enforcement Administrators and chief of Florida State's police department, told *Politico* that the school used their Humvee to navigate the campus following a flood.¹⁷ OSU uses its MRAP to stand guard out front of its football games. These may seem like useful applications of such equipment, but on an objective level, they are misapplications. These armored vehicles are designed to deal with dangerous threats from firearms and explosives, and simply bestowing them upon campus police departments who demonstrate no practical need for them doesn't help build the case that the 1033 program's military provisions are absolutely necessary.

Beyond college campuses, militarization has recently spread to regional school districts. San Diego Unified School District received an MRAP in 2014 to act as a "medical supply vehicle" that could help injured students. The same problem emerges here as with the aforementioned college acquisitions: that isn't the purpose of this equipment. Whether or not the district fills it with teddy bears

as officials say they will, an MRAP is a piece of military hardware, and parents have expressed valid concern.¹⁸ An even more controversial situation has developed in Los Angeles, where the Los Angeles School Police Department has received three grenade launchers and 61 assault rifles, in addition to an MRAP of its own.¹⁹ In Texas, districts across the state have also jumped into the 1033 program headfirst. A total of 64 M16 rifles, 18 M14 rifles and 25 automatic pistols were acquired by several of the state's districts. Armored plating, tactical vests and 15 surplus military vehicles accompanied the weaponry.²⁰ All of these developments are plainly unnecessary and unpractical in K-12 school districts, and they demonstrate the excessive growth of militarization facilitated by Section 1033. Just because the equipment is essentially free doesn't mean that any organizations eligible to acquire it actually should.

While it's easy to decry the 1033 program for driving the militarization of even small police groups, there are benefits of it that are undeniable. In addition to the weaponry and tactical equipment provided by the DLA, the majority of transfers are related to office supplies and practical utilities. The LESO claims that only five percent of the transfers they have made include weapons, with vehicles

making up less than one percent overall.²¹ Most transfers consist of non-tactical clothing, such as uniforms and outerwear, and office supplies. Desks, office chairs, computer monitors, file cabinets — these things are mundane and may seem like they should just appear in all administrative settings by divine intervention, but they do not. They cost money, and that is something that police departments generally lack.

Looking at the value of what the transfers consist of can lead observers to false conclusions like the belief that vehicles are the most commonly transferred items. That's plainly untrue. In 2013, vehicles accounted for \$249 million of the total value of items distributed, but that's simply because they cost more outright than electrical wires, which still managed to double the total value of weapons transferred that year at more than \$12 million. Weapons were also outpaced by medical equipment, which represented more than \$11 million, as well as clothing and uniforms, which made up nearly \$19 million collectively.²²

To write off 1033 completely because of the controversy surrounding weaponry is to miss the point of the program itself. At its core, it's a means of preventing waste by the DOD and providing police with provisions

that they can't afford but nonetheless need. Ideally, police departments will never need to use the weapons and armored vehicles they acquire, but even if that future comes true, they will always need the basic tools to run an office and maintain a presence. Currently, the 1033 program is the only way that necessity can be met.

Regardless of the program's benefits, it's too involved with perceptions of public safety to escape emotional rhetoric. Because security is an issue that no politician wants to seem soft on but happens to be one heavily tied up in racial and class issues, police militarization has historically been a political third rail. However, in response to Ferguson, prominent members of both major parties called for reform. President Barack Obama addressed the issue by calling for a full review of 1033, declaring that "[t]here is a big difference between our military and our local law enforcement. And we don't want those lines blurred. That would be contrary to our traditions."²³ The President didn't specify which aspects of 1033 he would like to see changed or if he would consider removing it altogether, but his opponents were much less ambiguous. In a piece for *Time*, Sen. Rand Paul (R- Ky) argued that the federal government should work with local police to reduce

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crime but should avoid helping "municipal governments build what are essentially small armies — where police departments compete to acquire military gear that goes far beyond what most of Americans think of as law enforcement."²⁴

Calls for reform increased following the revelation that police departments censured by the Justice Department for civil rights violations remained capable of applying for 1033 equipment. Most of these censures are resolved with consent decrees, wherein the department commits to certain outlined reforms, but many go unchecked. Attacks were levied at the DOD, which admitted that civil issues weren't accounted for when providing equipment through the DLA, and at the Justice Department, which was accused of being lenient with their crackdown on such violations.²⁵

While many expected the discussion to fade away once Ferguson had begun to calm down, a bipartisan team of House lawmakers went forward with a plan to reform 1033. By restricting

1033 from distributing some of the more controversial and dangerous weaponry, such as grenade launchers and certain armored vehicles, Reps. Hank Johnson (D-Ga.) and Raúl Labrador (R-Idaho) hoped to curb police violence. Their bill, the Stop Militarizing Law Enforcement Act of 2014, also includes an outline for new reporting systems that would further limit waste and losses of equipment.²⁶ The Senate was also proactive, with Sen. Claire McCaskill (D-Mo.) calling for DLA leaders to be brought in for hearings before the Homeland Security and Governmental Affairs Committee in order to ensure tighter regulation.²⁷

The DLA does suspend states from the program if there are consistent issues with reporting lost or stolen equipment, and the states of North Carolina and Alabama are currently in such a predicament.²⁸ There's also the DLA's condition that all militaristic equipment be used in some way within one year of being received or be revoked. This is useful in making sure that gear isn't sitting

in closets forever, but it also pushed departments to improperly use equipment in order to retain it, such as the use of heavily armed SWAT teams to serve private home search warrants.

It makes sense for people to want their police departments to be as strong as possible because, presumably, that will make the community safer. But when that sense of protection can transform into a scene resembling a war zone in the span of a day, it sends out the opposite message. Heavily armed SWAT officers storming into homes for simple search warrants and gigantic military vehicles sitting watchfully in front of Ohio State University football games don't engender trust and support – they make people paranoid. For as much good as the 1033 program does for police departments on a practical level, it is killing them on the public relations front. Law enforcement is most effective when it creates the sense that crimes are unnecessary, but violence begets violence, and when tear gas is freely and endlessly thrown into crowds because it happened to be subsidized, all that can come in return is anger.

The journey to this place began in a climate of fear. Concern that the police would ultimately be overpowered by the crime world was, at the time, not totally without merit. But the War on Drugs has unequivocally been won, and it's time that the mentality of wartime be returned to one of peacekeeping. Addressing root causes of crime and violence, including the racial inequity of the criminal justice system and the lack of opportunity presented to low-income communities, should be the first objective when trying to maintain a healthy society. The siege mentality adopted by law enforcement of the past generation has been maintained unnecessarily, and the transition of police from a community resource to a paramilitary force is problematic for all parties involved.

The 1033 program isn't inherently defective, but it has simply been implemented excessively, obscuring the elements that make it so useful. Objectively, police departments need the financial boost that this program gives them, just not the weaponry that it makes accessible. Starting with more public and accountable

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disbursement reporting, the government can begin to repair the damage done to community-police relations. There must also be an introduction of guidelines dictating how much of certain equipment an individual department can have. Coupled with an effort to base those numbers on actual crime rates rather than preparation for preparation's sake, 1033 can be amended relatively painlessly. Reform of 1033 isn't an attack on police or indicative of a disregard for public safety. Rather, it's an investment in the belief that an oath to protect and serve need not be made within the armored shells of MRAPs to mean something in modern America.

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⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

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