

Written Testimony of Mr. Mark Lomax; Executive Director of the National Tactical Officers Association before the Senate Committee on Homeland Security and Governmental Affairs for the hearing on “Oversight of Federal Programs for Equipping State and Local Law Enforcement Agencies”

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My name is Mark Lomax and I serve as the Executive Director of the National Tactical Officers Association and on behalf of the more than 40,000 law enforcement professionals we represent, I would like to thank Chairman Carper, Ranking Member Coburn and the esteemed Members of this Committee to have the opportunity to speak with you today.

Since its inception in 1983, the NTOA has served as a not-for-profit association representing law enforcement professionals in special operations assignments in local, state and federal law enforcement agencies. The mission of the National Tactical Officers Association is to enhance the performance and professional status of law enforcement personnel by providing a credible and proven training resource as well as a forum for the development of tactics and information exchange. The Association's ultimate goal is to improve public safety and domestic security through training, education and tactical excellence. The Association's current membership represents over 1500 tactical law enforcement teams throughout the United States and Canada.ⁱ

The American law enforcement officer recognizes, probably more acutely than most, that they are not in conflict with the citizens they serve. To the contrary, the brave men and women of this profession willingly place themselves between danger and the public every day and at great personal sacrifice to themselves and their families. Their children go to school with your children, their families go to church with your families and they too are citizens of the communities for which they have been given the solemn responsibility to protect. They often ask for little beyond the appropriate level of training, equipment and support necessary to accomplish their mission. The National Tactical Officers Association (NTOA) believes that those law enforcement officers that are asked to conduct the most difficult and dangerous missions, deserve the appropriate level of training and equipment to ensure, as much as possible, their success and safety. The Department of Defense 1033 Program and Department of Homeland Security grant funding has supported that effort by providing much needed safety and emergency response equipment.

The National Defense Authorization Act of Fiscal Year 1997 authorized the Defense Logistics Agency, specifically the Law Enforcement Support Office (LESO), to administer the 1033 Program and allows for the office to transfer excess Department of Defense property to law enforcement agencies across the United States and its territories. Since its inception, the 1033 program has transferred more than \$5.1 billion worth of property. In 2013 alone, \$449,309,003.71 worth of property was transferred to law enforcement.ⁱⁱ

Law enforcement agencies in the United States have taken advantage of this program from its inception, but certainly at a greater frequency after the terrorist attacks of September 11, 2001. The program has directly benefited recipient agencies and the citizens they serve, as well as creating a number of unique challenges along the way.

After September 11, 2001, first responder agencies across the country willingly volunteered to collaborate with their federal partners in building a robust and capable homeland security system at all levels. At the time, most progressive law enforcement agencies in the US had a proven capability in the prevention, investigation and enforcement aspects of crime fighting. The most significant challenge associated with this transition, for local law enforcement, was evaluating the potential threats associated with terrorism occurring in their community and determining the appropriate level of involvement for each agency. The threat of a terrorist attack in our country has not diminished in the last decade, and may have in fact become a more serious threat.

Although the US has seen a steady decrease in overall crime over the last decade, local law enforcement agencies have also been challenged with increasing threats such as violent gang and extremist group activity, border security issues and active shooter scenarios in schools, businesses and other public venues.

Also adding to this shift, the 2004 and 2005 Atlantic hurricane seasons resulted in 15 named storms impacting the United States, most notably Hurricane Katrina. As a result, first responder agencies from around the country reassessed their role and responsibilities associated with natural disaster response operations, specifically rescue, evacuation, sheltering and security operations.

During the last decade, the US Federal Government, most notably through the Department of Homeland Security (DHS) has given direction and guidance to state and local governments, through such documents as the National Response Framework (NRF) and the National Incident Management System (NIMS), as to how those capabilities should be built out. In September, 2007, the DHS published the Target Capabilities List (TCL)ⁱⁱⁱ, which as it relates to law enforcement, specifically outlines in the section titled *Emergency Public Safety and Security Response* (pp. 263-276, included as Attachment 1) what capabilities state and local law enforcement agencies should possess when responding to significant critical incidents. The TCL has since been cross-walked over to the new 31 Core Capabilities outlined in the National Preparedness Goal. Core Capability #10 “On-Scene Security and Protection” is defined as:

Ensure a safe and secure environment through law enforcement and related security and protection operations for people and communities located within affected areas and also for all traditional and atypical response personnel engaged in lifesaving and life-sustaining operations.

As law enforcement agencies across the country began building out these capabilities, a need was identified to standardize equipment, training, response plans and personnel credentialing to ensure uniformity in a multi-discipline, multi-jurisdictional unified response. In short, when affected agencies requested assistance during significant events, there was an expectation that like resources would be deployed to them consisting of the same capabilities for that discipline. The Resource Typing Library Tool (RTLTL)^{iv}, provided by the Federal Emergency Management Agency (FEMA) and the National Integration Center (NIC) provides those typing definitions for all responder disciplines. The NTOA provided Subject Matter Experts for this effort. The RTLTL defines seven different types of law enforcement response teams:

1. Bomb Squad/Explosives Teams
2. Law Enforcement Aviation – Helicopters, Patrol and Surveillance
3. Law Enforcement Observation Aircraft – Fixed Wing
4. Law Enforcement Patrol Team
5. Mobile Field Force Law Enforcement (Attachment 2)
6. Public Safety Dive Team
7. SWAT/Tactical Teams (Attachment 3)

Within several of these resource definitions, it is recommended that teams include in their equipment inventory such items as night vision, ballistic vests and helmets, personal protection equipment (PPE) such as protective clothing and respirators (gas masks), both impact and ballistic shields, chemical agents, shoulder fired weapons, aircraft, vessels and armored rescue vehicles.

Much of the equipment described above already had a place in US law enforcement, as did the specialized teams using them. However, the factors previously mentioned have reframed the way that state and local law enforcement administrators view their role in local, regional, state and national response plans. Normally the acquisition of expensive capital items or the significant increase of personnel by local law enforcement agencies are factored in over multiple budget cycles. However, to build this advanced capability out nationwide, law enforcement agencies had to reprioritize their general funding budgets and access Department of Homeland Security (DHS) and Department of Justice (DOJ) grants. DHS/DOJ grants and the LESO 1033 program allowed agencies to acquire the necessary equipment rapidly and at considerable cost savings to the local tax paying public. In order for any law enforcement agency grant applicant to purchase such equipment, it typically must be identified with an item number from the Approved Equipment List (AEL)^v. All of the items described above, with the exception of weapons, have an AEL number.

The 1033 Program has allowed local agencies to acquire heavy duty high wheeled vehicles, forklifts, generators and vehicles that improve operational capabilities and responder safety.

Examples:

Seminole County, FL– The Seminole County Sheriff’s Office (SCSO) has acquired property through the 1033 Program. Initial acquisitions of equipment included two OH-58 Kiowa’s and in 1999 a UH-1 Huey Helicopter. As a result, the SCSO was able to implement an aviation capability that did not exist prior to that. The use of those aircraft would provide approximately 9533 flight hours of airborne law enforcement and rescue missions to include; 1184 suspect apprehensions, 323 EMS patient transports and 8260 patrol assists between 1996 and 2009, when they were ultimately replaced with commercial aircraft.

Additionally, the SCSO has acquired numerous heavy-duty high-wheeled trucks and forklifts that were used extensively during the response operations of Hurricanes Charlie, Francis and Jeanne in 2004 and the floods of Tropical Storm Fay in 2007. Those vehicles were utilized to deliver sandbags, food, and water; patrol flooded residential areas and evacuate stranded residents. These heavy duty trucks were used as a means by which deputies with chainsaws were able to cut, drag, and clear extremely large trees that had blocked many roadways and access points well ahead of any other type of available public or county resource.

The 1033 Program also provided numerous sets of hand held night vision units, allowing patrol and specialized units to conduct surveillance operations in a much safer and more effective way. Surplus military generators have been used to power critical infrastructure post storm, such as shelters, fuel pumps, sanitation lift stations and traffic control lighting systems.

July 8, 1998, Deputy Sheriff Gene Gregory was killed in the line of duty and two more Deputy Sheriffs were shot during a 13 hour standoff with armed gunman. Over 300 rounds were exchanged. Deputies were rescued with use of handheld ballistic shields. The incident was the catalyst for acquiring two armored rescue vehicles and have been deployed in support of dozens of barricade and hostage incidents since. They have also been used extensively during community events as display items to educate the citizens of the county, and provide insight into the elevated capabilities of specialized teams and units during times of crisis.

Volusia County, FL – March 25, 2009, Officer El-Shami was shot at by a homicide suspect. Florida Region 5 SWAT responds when subject barricades himself in his home equipped with night vision, body armor, gas mask and numerous handguns and rifles (including a 50 caliber rifle). Two armored rescue vehicles were utilized to approach the structure, deploy chemical agents and tactical robots and negotiate from a P.A. system. (Attachment 4)

Colorado Springs, CO – 1995, The Colorado Springs Police Department (CSPD) acquired three surplus OH-58 Kiowa helicopters and created an Air Support Unit that was highly successful. In 2006, The CSPD took possession of a new DHS funded Mobile Command Post which was used extensively during the Waldo Canyon and Black Forest wild fires. In 2014, CSPD received seven unarmored Humvees from the 1033 program. These vehicles are used in the event of natural disasters such as floods, blizzards and wild fires.

Pittsburgh, PA – April 4, 2009 – Three Pittsburgh Police Bureau Officers were shot and killed responding to a domestic disturbance call. Another officer was shot and seriously injured attempting to assist the downed officers. During the ensuing barricade, the suspect, who was armed with an AK-47 assault rifle, exchanged gunfire with the police. Over 3,500 rounds of ammunition were fired. A DHS funded armored rescue vehicle was used to attempt to rescue an officer and was struck by over 200 rounds. (Attachment 5)

Boston, MA- 2013, the Boston PD and multiple other law enforcement agencies utilized armored rescue vehicles in the apprehension of the surviving suspect. Military grade thermal imaging was used to safely confirm the suspect's location during the arrest.

These examples demonstrate the necessity and application of emergency response equipment, heavy duty vehicles and armored rescue vehicles. The threat that firearms pose to law enforcement officers and the public during violent critical incidents has proven that armored rescue vehicles have become as essential as individually worn body armor or helmets in saving lives. Most tactical commanders utilize this resource judiciously and are sensitive to both their real and perceived appearance.

In recent years, many agencies across the country have also added the patrol rifle to their general issue inventory for officers. This may be in addition to, or instead of the patrol shotgun. The patrol rifle offers greater accuracy, distance and magazine capacity than the shotgun and is often configured in the same manner as any carbine rifle available in the civilian retail market. Numerous surplus rifles have been acquired by agencies through the 1033 program to supplement this effort.

With this paradigm shift, comes the need for training, standardization and collaboration.

State and local law enforcement agencies have done a remarkable job of building out the seven team types mentioned above in the RTLT. However, it is not uncommon for agencies to take receipt of such equipment and receive little or no training on how to utilize it, when to deploy it or equally as important, when not to deploy it. Prior to obtaining equipment from the 1033 Program, or purchasing commercially utilizing DHS grant money, agencies are not mandated to demonstrate training levels for the use of that equipment. It is incumbent upon that agency to obtain the necessary training based upon regulatory or voluntary compliance standards associated with such equipment.

As part of the NTOA's mission, we have sought out opportunities to provide that training to our membership. The NTOA currently provides 43 different law enforcement training programs, most notably in subjects such as Incident and Tactical Command Post Operations, Command Decision Making and Leadership, Training Management and Risk Mitigation, Less Lethal Projectile Instructor and a variety of firearms and tactics subjects. Each year the NTOA provides approximately 110 training sessions to over 3500 law enforcement professionals at locations throughout the United States.

Another challenge is that there are not enough of the specialized law enforcement teams developed, specifically Mobile Field Force Teams, in every jurisdiction around the country. Consequently, when a law enforcement administrator is faced with a civil disorder event, they often deploy the only resource they have immediate access to, the local SWAT team. It is important to note that approximately 87% of law enforcement agencies in the United States have fewer than 50 officers. With the exception of large metropolitan cities or jurisdictions that have had prior civil disorder events, most agencies have not invested in a mobile field force capability. There is also a general lack of training, regarding civil disorder events, for tactical commanders, planners, public information officers and first line supervisors.

The NTOA published the NTOA SWAT Standard in 2011 (Attachment 6), which outlines the most basic requirements for tactical teams in terms of operational capabilities, training management, policy development, operational planning and multi-jurisdictional response. The standard however, is a voluntary compliance standard. Subsequently, many law enforcement leaders view them as "unfunded mandates" and choose to ignore them or not strive to reach full compliance in all categories. The NTOA's position though, is that when an agency makes the decision to develop a SWAT capability, it should also make the investment in the training, equipment and best practices that are required to support such an effort. The NTOA also recognizes that there is still much work to be done in terms of standardizing law enforcement response during critical incidents, namely civil disorder events.

Despite efforts made by the law enforcement profession to improve levels of training and standardization though, the equation will not be solved without collaboration from other stakeholders such as elected government officials at all levels, the media, community leaders and the public. It is incumbent upon every law enforcement agency to actively engage these groups in conversation and educate them on law enforcement responsibilities and limitations, as well as to familiarize them with the equipment they utilize and why.

Again, on behalf of the 40,000 law enforcement professionals that the NTOA represents, I thank you for the opportunity to speak to you today on these current issues and challenges and look forward to answering any questions the Committee has.

ⁱ National Tactical Officers Association - <http://ntoa.org/site/>

ⁱⁱ Defense Logistics Agency, Disposition Services - <http://www.dispositionservices.dla.mil/leso/Pages/Training.aspx>

ⁱⁱⁱ Target Capabilities List - <http://www.fema.gov/pdf/government/training/tcl.pdf>

^{iv} Resource Typing Library Tool - <https://rtlt.ptaccenter.org/Public/Combined?q=law+enforcement>

^v DHS Grant Authorized Equipment List - <https://www.llis.dhs.gov/knowledgebase/authorized-equipment-list-ael>

				
Attachment 1 LE TCL.docx	Attachment 2 Mobile Field Force Resource	Attachment 3 SWAT Team Resource Typing	Attachments 4 and 5.docx	Attachment 6 NTOA SWAT Standard.pdf