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Hearing on the Oversight of Federal Programs for
Equipping Local Law Enforcement Agencies

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Mr. Chairman, distinguished members of the Committee, thank you for this opportunity to appear before you to discuss the very important topic of federal programs that provide equipment to our civilian police forces.

My name is Jim Bueermann and I am the president of the Police Foundation and the former Chief of Police of the Redlands, CA Police Department. 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 change 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. My testimony reflects these principles.

Prior to my work with the Foundation I served for a year as an Executive Fellow at the US Department of Justice's National Institute of Justice where I worked on translating scientific evidence for police practitioners. Prior to that, I was a police officer in Redlands, CA 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 orientation 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.

Equipment for Law Enforcement

As have many Americans, I have been closely following the events in Missouri. Among many aspects of the troubling incident in Ferguson is the national discussion about the “militarization” of this country's police forces. A focal point of this discussion is the Department of Defense's "1033 Program" that transfers surplus military equipment to local police departments. I believe most community policing experts will agree that the equipment itself may not be 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.

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. So they might 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. Context, not necessarily specific equipment or tactics, is one of the most important variables in determining whether military aspects of policing are appropriate or not.

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 program ensures that our taxpayers do not have to pay for these resources twice. While Congress reviews these programs in the wake of Ferguson, I urge you to consider the benefits and greater context along with possible changes. There has been substantial positive impact on public safety and officer safety from 1033 and other programs that provide equipment to law enforcement. For example:

- Two weeks ago, the Cook County 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, OH. The high axle clearance these vehicles have afford rescuers the means by which to traverse deep snow or rushing water to get to stranded victims.
- The Las Vegas 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 has utilized rescue helicopters obtained through the 1033 program 11 times during search and rescue missions in mountainous terrain. In addition, they used boats obtained through the 1033 program 6 times for diving/rescue missions at Lake Mead.

- The Pasadena, CA 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.
- The Los Angeles police recently used a 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.

Recommendations for the 1033 Program

Despite the benefits of various equipment provided through the 1033 program and the variety of types of equipment available, the two primary drivers of the public perception of police militarization are local law enforcement’s use of armored vehicles and tactical units (commonly referred to as Special Weapons and Tactics Teams – SWAT).

Based on my experience and familiarity with municipal government, community policing and the 1033 Program specifically, and in light of the benefits these programs have for our communities, the Police Foundation proposes the following changes and amendments to the programs to ensure they continue to strike a balance between the needs of the police and community interests.

We recommend that pursuant to federal legislation or regulation, every police agency that desires access to federal surplus property 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, and local governing body approval, of the department’s acquisition of the property; 2) that it has implemented a publically accessible policy governing the use of armored vehicles and tactical units (such as SWAT); and, 3) it makes publically available the number of times and context it utilized armored vehicles and tactical units.

This requirement can be easily fulfilled through:

1. The passage of a resolution documenting the locally elected governing body’s (e.g. City Council, County Board of Supervisors, etc.) approval of the application;
2. Minutes from a public hearing on the matter proving the community had an opportunity to express their opinion on the issue;
3. The implementation of police department policies that clearly outline the circumstances under which the military surplus equipment and tactical units (SWAT) can be used by the acquiring agency, and,

4. The public availability of the aforementioned policies and the number of times and context the department utilized armored vehicles and tactical units. Allowances can 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,” 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 “buy” it. The addition of military equipment like armored vehicles or SWAT teams in police departments with little use for them can create budgetary and organizational pressure to use them. Policing leaders who acquire military-like equipment, that is expensive to buy or maintain, and SWAT teams, can feel pressure from city or county administrators, or elected officials, to justify the expenditures. This can result in “normalizing” their use in “routine” circumstances and contributes 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 now purchase. In addition, this ensures the local community has 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 equipment and tactical were used. This community input and department transparency is entirely consistent with a fundamental underpinning of community policing that urges the police to “co-produce” public safety with the community they serve.

I believe it is important that these programs are retained with appropriate transparency, accountability and oversight guidelines incorporated. Completely eliminating them would have substantial impact on public safety and local budgets.

Militarization of the Police

The discussion of military-like equipment in police departments is part of a larger conversation happening nationally about “militarization” of the police. Even the phrase “militarizing the police” has different connotations. Broadly, the term “militarization” is defined as the use of military equipment and tactics by civilian policing authorities. I think there is more to this complicated issue.

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 and the equipment needs shift when the landscape shifts.

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 “militarization” issue, however, goes beyond access to equipment. There are law enforcement agencies across the country that strive to find a balance in these areas that provide needed resources and tactics to line officers, while maintaining and strengthening connections to the community and the legitimacy of law enforcement within that community.

Main issues in the militarization discussion for law enforcement to consider include:

- 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.
- The police use of military-like equipment and tactics is appropriate or not depending on the context of their use. The inappropriate use of military-like equipment and tactics erodes public approval of, and confidence in, the police.

The police use of an armored vehicle or SWAT team to keep officers safe while apprehending heavily armed and violent bank robbers, for example, would be more appropriate than the use of the same tactics to “control” vocal, yet peaceful protestors.

- Militarizing is a mindset that encourages police officers to assume a “warrior” orientation in the “war against crime.” It is espoused through a police organization’s culture and is represented by its values, messaging, recruitment, reward systems and policies.
- The addition of military equipment like armored vehicles or military-like SWAT teams in police departments with little use for them can create budgetary and organizational pressure to use them. Policing leaders who acquire military-like equipment, that is expensive to buy or maintain, and SWAT teams, can feel pressure from city or county administrators, or elected officials, to justify the expenditures. This can result in “normalizing” their use in “routine” circumstances and contributes to the militarization of the police. In striking a balance between serving the public safety interests and militarizing police departments leaders should also consider regionalizing the acquisition and use of this equipment or SWAT teams. This will help mitigate the normalizing of its use in inappropriate circumstances.
- Transparency, accountability and community input on a police department’s acquisition and use of military equipment or tactics are the antidote to militarization.

Transparency and community input is achieved through: 1) public hearings on the equipment use; 2) the police explanation of their rationale and a clear department policy regulating their use; and, 3) locally elected bodies voting to accept or reject the equipment. All of these actions should be taken before the police acquire the equipment or establish the SWAT team.

Accountability is achieved when police department’s document and share publically the number of times, and under what circumstances, they utilize military equipment like armored vehicles and SWAT teams. This also helps to counter the phenomena of normalizing their use in inappropriate situations.

Advancing Democratic Policing

I also urge the Committee and Congress to examine evidence-based policing strategies and proactive 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. The following are some key points to consider:

1. Focus on Community Policing.

Community policing is not a program. It is a value-based, philosophical orientation and commitment to working with the community to solve public safety problems. Similarly, militarized policing is a mind-set that can permeate a police department's culture. Reward systems and symbolism. The police can use military-like equipment and tactics without eliminating community policing and its requisite connection to the people the police serve.

2. The police must constantly focus on enhancing their legitimacy in the eyes of the community.

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. The degree to which the police are transparent and accountable for their actions is critical to the formation of public confidence in the police.

3. Police organization must reflect the community they serve.

In addition, policing organizations should reflect the communities they serve. When diverse communities see the police as not reflecting their members they can lose faith in the police to understand their needs in meaningful ways. This is extremely problematic when there is great disparity between the racial makeup of the community and the policing organization that serves them.

Finally, it is crucial that police leaders demanding their workforce act in a legitimate manner also ensure that the organization's internal legitimacy – the way it treats its own members – is meaningful and credible.

4. The police must be driven by a set of organizational values developed in concert with the community.

Each community has its own collective set of desires and expectations of its police officers. Police leaders should "listen naively" to a wide range of community input about its police department and include this input when formulating its mission and values. These values should minimally include: 1) the belief that police officers are "protectors of civil rights;" 2) the notion that recruiting officers in the "spirit of service" rather than the "spirit of adventure" furthers the true purpose and legitimacy of the police; and, 3) the development of a relationship with the community that the police openly hold as sacred. Police leaders must ensure that there is organizational alignment between the adopted values and all aspects of the organization (e.g.

recruitment, hiring, promotions, discipline, messaging, etc.) to ensure these values anchor to the cultures of the organizations they lead.

5. The police and the community must “co-produce” public safety.

When the police assume complete, insular responsibility for controlling crime and disorder, and unilaterally implement strategies intended to combat crime, they run the risk of alienating the public who may have little understanding or commitment to the chosen strategies. Community members know a lot about crime and disorder – especially in their own neighborhoods. The police should seek the input of the public when identifying problems related to crime and disorder. And they should collaborate with key stakeholders to identify effective strategies and partner with community groups and individuals to implement these strategies and “co-produce” outcomes related to safe and healthy communities.

6. Policing agencies must provide their police officers with proper training, accountability technology and less-lethal tools.

Every police officer should be provided with adequate basic, in-service and advanced training in the areas of police legitimacy, racial and cultural sensitivity, youth issues, dealing with persons suffering from mental illness, and use-of-force. In addition, officers should be equipped with accountability technology such as in-car and body worn cameras or tape recorders to document “enforcement stops.” Finally, each officer should be equipped with less-lethal options for controlling violent individuals. Communities that fail to demand this training and equipment for its officers should not be surprised when officers use poor strategies and significant force in instances where it could have been avoided. And concomitant to this training, technology and equipment are adequate policies and practices that hold officers accountable for their actions.

7. The police should utilize the best available scientific evidence about what works to control crime and disorder

When the police use the best available science to inform their crime control strategies, and share this knowledge with the communities they serve, they are better situated to explain their rationale and avoid claims of favoritism or discrimination. Crime control science is not perfect and the police should receive training in “evidence based policing” to enable them to differentiate between rigorous scientific efforts and findings and flawed studies. Policing organizations can easily access US DOJ evidence based tools like crimesolutions.gov, research or membership organizations (e.g. the Police Foundation, George Mason University’s Center for Evidence Based Crime Policy, the International Association of Chiefs of Police, the Police Executive Research Forum, etc.) or find academic institutions with staff willing to assist them in identifying good from not-so-good science.

8. Leadership training.

Leadership focusing on translating democratic principles to police practices and policies should be emphasized. The FBI National Academy is this country’s de facto “police college” and educates more than 1000 current and up-and-coming police leaders each year. It would be an important part of creating a “national coherence” on these important issues. In addition,

innovative leadership development programs should be developed that are nimble enough to adapt to the rapidly changing world of police leadership.

9. Critical Incident reviews.

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.” Important lessons can be learned from the events in Ferguson. And these lessons can be translated into meaningful changes in the way American policing operates. 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 “Chrisopher Dorner Incident” in 2013 (see 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.

Conclusion

It is imperative that the Committee and Congress 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 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.