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# The 1033 Program: Redefining Police-Community Relations

Jeremy J. Timko

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THE 1033 PROGRAM: REDEFINING POLICE-COMMUNITY RELATIONS

A Master Thesis

Submitted to the Faculty

of

American Military University

by

Jeremy James Timko

In Partial Fulfillment of the

Requirements for the Degree

of

Master of Arts

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Charles Town, WV

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## DEDICATION

I dedicate this thesis to my father. His stories of working a rotating shift as a police officer in the early 1980s and then spending countless hours in an actual library sorting through the card catalog, searching for books, handwriting notes, and using a typewriter to complete his research papers provided motivation and humility after recognizing the significance of modern technology.

## ACKNOWLEDGMENTS

I wish to thank all of the staff and professors who have guided me through the security management program from the beginning of my journey all of the way to the end. Each and everyone one of you have played a unique role in my success and not once have I ever been disappointed with your guidance. I wish to specifically thank A. Prof. Jeffrey T. Fowler for his guidance and assistance in expanding upon my original thesis idea and to incorporate themes that I initially did not recognize as relevant to my thesis topic.

I have found my course work within the security management program to be very beneficial in providing a very solid foundation for understanding the many intricacies involved in this field.

ABSTRACT OF THESIS

THE 1033 PROGRAM: REDEFINING POLICE-COMMUNITY RELATIONS

by

Jeremy James Timko

American Public University System, April 26, 2015

Charles Town, West Virginia

Professor Jeffrey Fowler, Thesis Professor

The purpose of this qualitative research method capstone was to examine the effects of the Department of Defense's (DoD) 1033 Program on police militarization and police-community relations. This was accomplished via an exhaustive research effort consisting of the collection and examination of scholarly and peer-reviewed journal articles, government research and reports, research institution publications, books, organizational websites, media articles, and archival research through the American Public University online library. The findings indicated a disconnect in accountability and a lack of training standards set by both DoD and law enforcement agencies participating in the 1033 Program, which partially contributed to police militarization and the erosion of police-community relations. The 1033 Program was determined not to violate the Posse Comitatus Act of 1878 based on the programs approval by Congress. This study concluded the 1033 Program, as well as police-community relations can be improved through increased oversight and the implementation of written policy, improved accountability, and training standards while also minimizing police militarization.

*Keywords:* 1033 Program; police militarization; police-community relations

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## Introduction

Although Sir Robert Peel modeled the Metropolitan Police in London upon a paramilitary structure in 1829, today's modern day policing services in the United States still utilize this very structure today, although to varying degrees (Murray, 2005). However, it is very doubtful that Peel would have even anticipated the evolution of policing services or that the military would be actively and routinely providing law enforcement with access to certain pieces of equipment such as weapons and armored vehicles that were initially intended for military purposes. Regardless of Peel's initial intention in developing more effective methods of policing, it would be impossible not to recognize that law enforcement has taken a much more militaristic approach toward policing services within the last few decades, especially after 9/11 (Murray, 2005). Although the events of 9/11 did not solely catapult the idea of increased militarization into the law enforcement profession around the United States, the war on terror, and the new emphasis on the implementation of domestic preparedness initiatives have undoubtedly introduced an additional method for the federal government to supply law enforcement with training, equipment, weapons, and vehicles that normally would not have been as prevalent if these chain of events did not occur (Campbell & Campbell, 2010; Kraska, 2007).

There are several directions that law enforcement agencies can take in providing policing services to the communities they serve—either through community policing, relying heavily upon militarization and mirroring a police state, or varying degrees in between. However, alienating the communities these law enforcement agencies serve will most likely lead to a complete failure in police-community relations that play a vital role in fighting crime. With the blurring of roles between law enforcement and military functions, attempting to finely balance which tools, weapons, equipment, training, and vehicles, are most appropriate for use in specific

roles of domestic preparedness, the war on drugs, or the war on terror, suddenly becomes a considerably more difficult and problematic task as they are often all interchangeable within the scope of law enforcement and domestic preparedness. Regardless of which direction law enforcement agencies choose to pursue in fighting crime, society has changed dramatically since Sir Robert Peel's original idea of policing in 1829. Policing methods continue to evolve based on current threats and changes in crime within society and how society expects crime to be handled. Unfortunately, law enforcement is often unable to evolve or keep pace with the demands of society. Improving training standards and updating equipment and technology do not occur as quickly or as fluidly as what is often necessary due to a lack of funding (Bueermann, 2014). Inevitably, law enforcement will continue to focus on developing technologies and other advanced methods to fight crime and apprehend criminals in addition to relying upon proven or more traditional methods of policing. Conversely, criminals will also find new technologies and methods to commit crime all in an effort to evade law enforcement.

One method of providing policing services that has recently attracted overwhelming attention is law enforcement's reliance on a more militarized approach toward fighting crime. The increase of militarization within law enforcement agencies has become a heavily debated topic and concern mainly due to riots in Ferguson, Missouri, that occurred in the summer of 2014 after police there shot and killed an unarmed man. There continues to be an onslaught of national television coverage of the events in Ferguson, Missouri, along with opinion pieces and articles written by journalists, bloggers, as well as any other person that has access to social media. Each outlet has provided various viewpoints regarding the role of law enforcement as well as what should have occurred, with a heavy emphasis on focusing on the 1033 Program as if it were a new program that has suddenly caused a significant increase of militarization within law

enforcement. Although law enforcement has well established roots in a paramilitary structure, the current focus on the increase in militarization among law enforcement has actually been established as far back as the 1960s with the creation of Special Weapons and Tactics (SWAT) teams (James & Else, 2014). Since the 1960s, the use of SWAT teams has increased exponentially throughout the nation's law enforcement agencies with many more agencies—regardless of size—forming new SWAT teams (James & Else, 2014). However, as a result of the backlash against law enforcement's perceived heavy-handed and over-militarized approach toward the violent and nonviolent protesters in Ferguson, Missouri, President Obama made an announcement in December of 2014 claiming that the White House would review the Department of Defense's (DoD) 1033 Program, which is viewed by many as a major contributor toward the increase in police militarization and a potential factor that exacerbated the riots in Missouri (Landler, 2014).

The current form of the 1033 Program has been in operation for nearly two decades. However, when Congress initially created the program through the National Defense Authorization Act (NDAA) for Fiscal Years of 1990 and 1991, it only allowed for the DoD to allocate excess property and equipment to federal and state agencies for use in counter-drug initiatives (DLA, 2015). When Congress approved the National Defense Authorization Act for Fiscal Year 1997, the program was expanded even further—as noted in section 1033 of the act—which authorized all federal, state, and local law enforcement agencies that possess the power of arrest and apprehension, to participate in the program for the purposes of counter-drug and counterterrorism initiatives (DLA, 2015). The program is most commonly referred to as the 1033 Program, a name derived specifically from section 1033 of the National Defense Authorization Act for Fiscal Year 1997 (Estevez & Harnitchek, 2014). The 1033 Program operates by

transferring excess equipment from the DoD to the Defense Logistics Agency (DLA), at which time the DLA determines if the excess equipment will be utilized at a later time, transferred to another department, donated, or sold to the public (Estevez & Harnitchek, 2014). The 1033 Program is operated by the Law Enforcement Support Office (LESO) and works in conjunction with a coordinator that must be appointed by each participating state's governor to maintain program accountability (DLA, 2015). The 1033 Program provides property to more than 8,000 federal, state, and local law enforcement agencies in all states, except Hawaii, as well as three U.S. territories (Estevez & Harnitchek, 2014). Additionally, there are two classifications for transferred equipment: controlled and non-controlled (Estevez & Harnitchek, 2014).

The main concern of the 1033 Program has been focused on the transfer of equipment transfers classified as "controlled," or equipment that has been specifically designed for military purposes, such as weapons and Mine-Resistant, Ambush-Protected vehicles (MRAPs) which only accounts for approximately four percent of all equipment transferred to law enforcement agencies through the program (Estevez & Harnitchek, 2014). However, this represents a small number of the equipment transferred through the 1033 program. The majority of the equipment transferred through the program, approximately 96 percent according to one estimate, consists of items that are classified as non-controlled, or do not have sole military characteristics, such as office equipment and supplies, commercial vehicles, tents, blankets, first aid kits, and storage containers (Estevez & Harnitchek, 2014). However, the Congressional Research Service learned from the DLA that current percentages of controlled equipment transferred through the 1033 Program between August and September of 2014 is closer to 12 percent whereas non-controlled equipment transferred through the program is at approximately 86 percent.

Although the 1033 Program is viewed as having intensified militarization within law enforcement and also leading to the increase of many law enforcement agencies adopting the use of SWAT teams, there is also concern over compliance of the Posse Comitatus Act of 1878. Specifically, the Posse Comitatus Act of 1878 denotes the separation of military services and civilian law enforcement in the United States. Although the act does permit military support to civilian police, this is only permitted when specifically ordered by the President of the United States or through the authorization of the United States Congress (Brinkerhoff, 2002). Many interpretations of the Posse Comitatus Act of 1878—whether correct or erroneous—have been linked to the blurring of roles between military and law enforcement functions as well to concerns as to whether the DoD is legally allowed to provide military equipment to law enforcement agencies under this act (Brinkerhoff, 2002). There is also concern that the effectiveness and purpose of the Posse Comitatus Act of 1878 has significantly been eroded in the past few decades and that the operation of the 1033 Program has contributed toward this erosion as well (Brinkerhoff, 2002).

With all of these elements taken into consideration, it is imperative that the federal government, particularly the DoD, along with all law enforcement agencies participating in the 1033 Program, carefully examine the intended purposes of the 1033 Program and take into account the potential positive and negative effects this program imposes on police-community relations. This examination was conducted to identify specific methods pertaining to how controlled and non-controlled equipment acquired through 1033 Program can be utilized in a manner that does not further promote an increase in militarization among law enforcement agencies. This examination identified specific consequences of the 1033 Program that have

contributed to the degradation of police-community relations and police militarization. Finally, this examination will test the thesis statement.

### **Literature Review**

There is a modicum of scholarly literature available that addresses the relationship between police-community relations and the DoD 1033 program. However, through testimony, reports and other avenues in addition to the available literature, experts and commentators have discussed this program extensively. Three themes have emerged after a review of scholarly and peer-reviewed journal articles, government research and reports, research institution publications, books, and archival research regarding the DoD's 1033 Program. The first theme encompasses the role that the 1033 Program has on intensifying police militarization and the potential negative impact it has placed on police-community relations. The second theme focuses on the many benefits the 1033 Program provides for law enforcement agencies and the citizens they serve around the country not only in fighting crime, but also in domestic preparedness and providing the ability for law enforcement to immediately respond to local and national emergencies that are either based on natural disasters or on terrorist events. A third theme that has emerged from this research is the overwhelming support for additional oversight of the 1033 Program. This oversight encompasses the introduction of varying levels of accountability from when the DoD provides excess equipment to the DLA, all the way to when law enforcement agency receive and then deploy acquired equipment.

### **The Negative Impact of the 1033 Program**

This research has identified three significant consequences that have been linked to the operation of the 1033 program and the cooperation between the military and domestic law enforcement. The first significant consequence linked to the 1033 Program is that the transfer of

equipment exhibiting military characteristics, such as weapons and vehicles, has caused an increase in police militarization and the blurring of roles between military and law enforcement functions. The second consequence is that the 1033 Program along with police militarization caused an increase in the erosion of relations between law enforcement agencies and the communities they serve. The third consequence is that the 1033 Program has partially contributed toward the continued erosion of the Posse Comitatus Act of 1878. However, even though these consequences are linked to the 1033 Program, the program should not be viewed as the sole cause or even the primary contributor to these consequences. Additionally, many other programs provided by the Department of Justice (DoJ) and the Department of Homeland Security (DHS) offer funding to law enforcement agencies that can be used to purchase vehicles, weapons, and other equipment that have militaristic characteristics which can contribute to police militarization and blurring roles, the erosion of police-community relations, and the erosion of the Posse Comitatus Act of 1878 as well.

**Police militarization and blurring roles.** The blurring of roles among domestic law enforcement and military functions has been traced as far back as the 1960s with the introduction of SWAT teams that were initially intended for deployment in high-risk events that required specialized skills beyond that of what the average law enforcement officer could provide (James & Else, 2014; Kraska, 2007). There is also the argument that this blurring of lines has been exacerbated by—and will continue in parallel with—the war on drugs, and more recently with the war on terror, as these wars have depended upon the continual cooperation between law enforcement, the federal government, and military functions to carry out domestic preparedness initiatives by sharing tactics, information, and equipment (ACLU, 2014; Hall & Coyne, 2013; Hill & Beger, 2009; Kohn, 2009). However, Kraska (2007) noted that “the foundation of military

and police power is the same—the state sanctioned capacity to use physical force to accomplish their respective objectives” (p. 3). There are varying degrees to which militarization can be applied within domestic law enforcement as not all law enforcement agencies utilize the same training, tactics, equipment, and weapons as they operate independently from one another under local, state, or federal jurisdictions, unlike the military. Nevertheless, Hall and Coyne (2013) added that the war on drugs established in the 1970s and the war on terror in the 2000s have become so firmly imbedded within all levels of law enforcement as result of the increase in the blurring of roles and police militarization that each have now become a permanent foundation of present day policing. Additionally, the incorporation of the wars on drugs and terror have become so normalized that society has become to expect this approach toward policing and attempting to stop or even reverse this blurring of roles and the increase of police militarization would be an almost impossible task as many government agencies, as well as many civilian companies and organizations, solely exist and ultimately profit at varying levels just because of the war on drugs and the war on terror (Hall & Coyne, 2013).

However, more recently the fundamental belief is that police militarization has been exacerbated by the establishment of 1033 Program as it is reputed to provide a gateway for law enforcement agencies across the United States to obtain weapons and equipment that were otherwise reserved for and intentionally designed for military and battlefield purposes (ACLU, 2014; Hall & Coyne, 2013; JPI, 2012; Shelton, 2014). This holds even more value when the DOD often advocates that equipment and weapons created for the military posses dual-use functions that can also be used for civilian or law enforcement applications to justify investment (Campbell & Campbell, 2010, Stockton, 2011). Furthermore, Estevez and Harnitchek (2014) provided testimony to the Senate committee of Homeland Security and Governmental Affairs

regarding the 1033 Program and noted that the majority of the equipment being transferred does not have any military characteristics, such as office furniture and medical aid kits. Furthermore, Estevez and Harnitchek (2014) asserted that only around four percent of property transferred through the 1033 Program exhibits overt military characteristics such as firearms and MRAPs. Nevertheless, many members of Congress have expressed concern that the 1033 Program has contributed to police militarization and may have played a role in the perceived heavy-handed response by law enforcement in reference to protests and rioting in Ferguson, Missouri related to the police shooting and killing an unarmed male (Grasso, 2014). More specifically, Senator McCaskill (2014) in her opening statement provided during a hearing on the Oversight of Federal Programs for Equipping State and Local Law Enforcement, recognized that the 1033 Program has substantially contributed to providing law enforcement agencies with military equipment of all types and expressed concern as to whether law enforcement agencies actually require equipment with military characteristics to serve and protect their communities.

**Police-Community relations.** The 1033 Program has been linked with police militarization and is regarded as a major contributor to the negative perception of law enforcement while also exacerbating distrust in communities (ACLU, 2014; James & Else, 2014; Meeks, 2006). In the report titled *Rethinking the blues: How we police in the U.S. and at what cost*, the Justice Policy Institute (JPI) (2012) reported police militarization has dramatically increased due to equipment sharing between the DoD and law enforcement agencies, which has also been linked to an increase in anticrime initiatives. More recently, in their report titled *War comes home: The excessive militarization of American policing*, the ACLU (2014) also asserted an increase of police militarization, however, this report focused more on the overwhelming trend of law enforcement agencies of all sizes in creating new SWAT teams where they once did

not exist. Because of the increase in the creation of additional SWAT teams, there has obviously been a marked increase in their deployment as well; however, this is not due to an increase in crime but a broadening of how SWAT teams are deployed (ACLU, 2014). There is a normalization of the deployment of SWAT teams as they are no longer reserved for high-risk events such as hostage situations or barricades as originally intended; deployment has crept primarily into the execution of search warrants for drug related crimes (ACLU, 2014; James & Else, 2014; Kraska, 2007). These anticrime initiatives, in conjunction with the increased use of SWAT teams for the execution of drug search warrants, have disproportionately been aimed toward minority residents that actually represent a very small portion of the population in many areas (ACLU, 2014; Hill & Beger, 2009; JPI, 2012). Most notably, the ACLU (2014) focused on the lack of oversight in law enforcement in general and noted that this lack of oversight, in combination with the equipment obtained through the 1033 Program and the increased militarization of police, will ultimately undermine the more traditional approach toward policing which is to serve and protect its community.

Although the majority of the items and equipment transferred through the 1033 Program do not have military characteristics (Estevez & Harnitchek, 2014), the equipment that has the most obvious militaristic characteristics, such as weapons and armored vehicles, are at the height of the discussion behind police-community relations. In his testimony before the House Armed Services subcommittee on oversight and investigations on oversight of federal programs for equipping state and local law enforcement agencies and the Senate committee of Homeland Security and Governmental Affairs, Bueermann (2014) noted that the deployment of such equipment that is viewed as militaristic must be examined within the context of the intended incident in which it is deployed as there is a distinct difference between its use for the

apprehension of an armed suspect as opposed to being utilized to control nonviolent protestors and other persons of the community. At this same hearing, Senator McCaskill (2014) expressed concern over how the equipment transferred through the 1033 Program will effect police-community relations with officers dressed in military fatigues and using armored military vehicles that are considered intimidating. Senator McCaskill (2014) also questioned if law enforcement agencies actually needed access to military equipment provided through the 1033 Program and found irony in the DoD providing domestic law enforcement with military equipment when military personnel during the Iraq and Afghanistan wars relied on emulating the role of law enforcement when working with and rebuilding communities.

**The Posse Comitatus Act of 1878.** The Posse Comitatus Act of 1878 is regarded as a unique piece of legislation that plays an important role in regulating and limiting domestic law enforcement and military cooperation within the confines of the United States (Doyle & Elsea, 2012). The passage of the Posse Comitatus Act of 1878 rose from the concern that several southern states continued to use federal troops to enforce law after the civil war had ended and that these troops may have influenced and even intimidated voters in the Presidential election of 1876 between Samuel J. Tilden and Rutherford B. Hayes, leading some to believe that the results of the election were untrue (Brinkerhoff, 2002; Doyle & Elsea, 2012; Hall & Coyne, 2013). Additionally, there were concerns that federal troops were frequently conscripted into the posses of the U.S. marshals and sheriffs to enforce laws such as the Fugitive Slave Act of 1850 and that the United States was ultimately accountable for the expenses of these posses when capturing fugitive slaves (Brinkerhoff, 2002). Although the initial events that lead to the passage of the Posse Comitatus Act of 1878 are not necessarily disputed, the act was never intended to separate military and law enforcement roles, prevent police militarization, or prevent the military from

providing support to domestic police (Brinkerhoff, 2002). Brinkerhoff (2002) insisted the act is often misinterpreted and has resulted in views that are the exact opposite of what the act was originally intended which was to “prevent the Army from being abused by having its soldiers pressed into service as police officers (a posse) by local law enforcement officials in the post-Reconstruction South” (para. 9).

Brinkerhoff (2002) suggested that many interpretations of the act wrongfully insist that the military is forbidden from supporting law enforcement or enforcing laws altogether when in fact the act expressly allows support only when specifically authorization by the President or Congress and does not violate the U.S. Constitution. However, Hall and Coyne (2013) recognized that over a century later after the Posse Comitatus Act of 1878 was passed, several prominent legal cases in the 1970s challenged the limitations of the act yet none resulted in limiting the cooperation between law enforcement and the military and actually resulted in establishing a significant level of legal impunity between the two in the United States. Even when violations of the Posse Comitatus Act of 1878 were recognized in court proceedings it did not lead to acquittals or even to the exclusion of evidence as “...penalties for violating the act are plainly stated in the language of the law” and “...a violation of the act does not violate an individual’s constitutional rights...” (Hall & Coyne, 2013, p. 492). After these cases were finished, the Posse Comitatus Act of 1878 was believed to have been weakened even further due to the war on drugs in the 1970s and again in the 2000s with the war on terror establishing continued collaboration between the roles of law enforcement and the military (Hall & Coyne, 2013). Kraska (2007) linked the “significant erosion” of the Posse Comitatus Act of 1878 with the militarization of law enforcement in the United States based on increased levels of cooperation between US armed forces and law enforcement in the mid-to-late 1980s and the war

on drugs (p. 2). Kraska (2014) added that this cooperation has increased the sharing of information, weapons, equipment, as well as training that has also normalized the use of SWAT teams and redefined traditional methods of policing with a heavier focus on militarization.

With these different interpretations of the Posse Comitatus Act of 1878 came contrasting suggestions on what exactly the next step should be to prevent further confusion and impunity. Bloeser (as cited in Hill & Beger, 2009) suggested leaving the fundamental purpose of the Posse Comitatus Act unchanged while strengthening penalties for violations of the act, such as increasing prison sentencing, requiring restitution to victims of violations, holding those who failed to provide proper supervision in preventing violations of the act accountable, and also developing a method for military personnel to report violations of the act anonymously. Contrary to these suggestions, Brinkerhoff (2002) noted that violations of the act would only affect those that requested government assistance under the act, such as the law enforcement personnel or the military commanders, and that military personnel performing their duties at the request of law enforcement and military commanders would not be held accountable for their actions. Additionally, Brinkerhoff (2002) recommended that the Posse Comitatus Act of 1878 be rescinded and ultimately replaced with new law that is more clearly written and specifically covers the use of military forces in providing homeland security and assisting domestic law enforcement under current domestic concerns so there is no room for misinterpretations. Brinkerhoff's (2002) reasoning behind this viewpoint is that the Posse Comitatus Act of 1878 was written during a different era and served a purpose that does not apply to today's concerns over police militarization or cooperation between law enforcement and military forces. However, regardless of the different interpretations of the Posse Comitatus Act, the proposal to add stiffer penalties for violations, or even rescinding and rewriting the act to reflect with current affairs

within the United States, there are no officially reported instances in which anyone had been prosecuted under the act (Brinkerhoff, 2002; Doyle & Elsea, 2012).

### **Notable Benefits of the 1033 Program**

The second theme focuses on the many benefits the 1033 Program offers to law enforcement agencies, although there is little scholarly literature to support the efficacy of the program. This may be attributed to the lack of interest in the program in general or scholars have not focused on the notable benefits as the 1033 Program has only recently emerged as an important topic based on the events in Ferguson, Missouri. Most of the literature that recognized notable benefits of the 1033 Program stem from statements provided in hearings before Congress, the Senate, and the U.S. House of Representatives. Furthermore, these statements originate from persons who are directly connected with the 1033 Program or tend to benefits from its operation. For example, Stockton (2011), the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs, provided testimony before the 112<sup>th</sup> Congress in 2011 focusing on how programs similar to the 1033 Program such as “acquisition programs; excess property programs; equipment loan-lease programs; expertise sharing; and the leveraging of dual-use technologies developed by DoD” greatly aid in domestic preparedness and emergency response as well as with law enforcement’s efforts in counterdrug and counterterrorism initiatives. More recently, at a 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, Bueermann (2014), the President of the Police Foundation, testified that equipment and vehicles obtained through the 1033 Program offer many benefits that are beyond what is typically covered when discussing to the program. Bueermann (2014) noted many actual occurrences that benefited from the use of the 1033

Program such as a sheriff's department utilizing an armored vehicle to protect officers and the removal of hostages from a dangerous and high-risk environment, as well as utilizing MRAPs for the rescue of citizens that were stranded in water and during snowstorms. Bueermann (2014) also said that the 1033 Program provided parts to maintain helicopters that were used to rescue hikers who were injured or stranded in mountain areas as well as persons stranded during flooding.

Bueermann (2014) explained that during periods of budget constraints the 1033 Program has allowed law enforcement agencies to update equipment as well as obtain equipment and armored vehicles that are often necessary, yet unavailable, for many high-risk situations. Also, a common benefit of the 1033 Program that has been mentioned several times is the savings of taxpayers' money by allowing the transfer of excess equipment and vehicles from DoD to many law enforcement agencies, which would otherwise sit in storage, be dismantled, or disposed of by other means (Bueermann, 2014, Estevez & Harnitchek, 2014; Lomax, 2014). Bueermann (2014) noted that the 1033 Program allows for many law enforcement agencies to obtain essential equipment without the taxpayer having to pay for the items twice. This ultimately extends the use of equipment or aids law enforcement agencies that may not otherwise be able to afford certain vehicles or pieces of equipment based on budget constraints (Bueermann, 2014). At this same hearing Lomax (2014), the Executive Director of the National Tactical Officers Association (NTOA), provided testimony that retraced the changes in response to active shooter incidents in schools around the nation and that the 1033 Program has provided equipment such as rifles to patrol officers who are often first to arrive on scene well before the activation and response of SWAT teams. Lomax (2014) noted this provides a quicker response to take action against these incidents and provides a higher potential to save lives. Contrary to the focus on the

negative implications that the militarization of police has on police-community relations, Kraska (2007) clearly establishes that there is a need to maintain a paramilitary function in law enforcement. However, Kraska (2007) stressed that this paramilitary function should be reserved for special circumstances such as with SWAT teams that have traditionally operated under a reactive response instead of a proactive role that has become a normalized function within law enforcement.

### **Government and Law Enforcement Accountability**

A third theme that has emerged from this research is the need for additional oversight of the 1033 Program. This includes focusing on oversight and accountability at all levels of the 1033 Program from the top of the program starting with the DoD, through the DLA, LESO, and state coordinators, and finally ending with the law enforcement agencies that take possession of the equipment. Much of the current conversation regarding the need for additional accountability and oversight of the 1033 Program and participating law enforcement agencies has taken place within hearings in front of the Senate and the U.S. House of Representatives that have stemmed from the Ferguson riots in the summer of 2014. However, this concern has been in debate for many years as Kraska (2007), the JPI (2012), and most recently the ACLU (2014), among many other sources, all recognizing a common negative outcome resulting from an apparent lack of oversight. According to the literature review, there is evidence to support that oversight and accountability does exist within the 1033 Program as several steps must be taken before law enforcement agencies can participate in the program. For example, to participate in the 1033 Program, the Congressional Research Service report titled, *The “1033 Program,” Department of Defense support to law enforcement*, explains that each state must submit a Memorandum of Agreement (MOA) to the DLA through a coordinator that is appointed by the participating

state's governor (Else, 2014). The state coordinator is tasked with safeguarding the program from misuse by participating law enforcement agencies, investigating misuse of the program and the property as well as keeping records of property that has been disseminated (Else, 2014). The report further explains that State participation in the program may be suspended by the LESO and state coordinators may suspend participation for participating law enforcement agencies if there is reason to suspect improper use of the program or transferred property. If violations of the program do occur, the chief of police or person in charge of requesting and receiving the property is held responsible (Else, 2014). Furthermore, the report indicates that the DLA requires LESO to visit each state's coordinator to ensure proper documentation is being maintained and that all transferred property is being accounted for without misappropriation or exploitation.

There are also two methods used to categorize transferred property within the 1033 Program—property that exhibits military characteristics and property that does not—and each of these two categories have different measures for accountability (Else, 2014). Pieces of equipment that exhibit substantial military characteristics—most notably guns and armored or tactical vehicles such as MRAPs—are transferred with the understanding that the equipment and vehicles are on loan and will remain the property of the DoD without the possibility of being sold to the public or even owned by the law enforcement agency (Else, 2014). The second category of transferred equipment includes items that do not solely exhibit military characteristics such as office equipment and supplies, first aid kits, or even building materials, yet even these items must still be accounted for during the first year of possession by the law enforcement agency and then after this time period has passed ownership may finally be transferred from DoD to the law enforcement agency (Else, 2014). However, this level of accountability is challenged by several concerned parties to include the National Association for

the Advancement of Colored People (NAACP), several U.S. Senators, as well as scholars who have extensively studied police militarization. Recent literature regarding the 1033 Program and government and law enforcement accountability does not uncover a theme for simply leaving the program as it currently operates. Persons in charge of overseeing the 1033 Program have suggested additional oversight as well as further restrictions to the program to ensure better control and responsibility.

In a joint statement before the House Armed Services subcommittee on oversight and investigations on oversight of federal programs for equipping state and local law enforcement agencies and the Senate committee of Homeland Security and Governmental Affairs, the principal deputy under the Secretary of Defense for acquisition, logistics, and technology, Alan Estevez, along with the director of the DLA, Mark Harnitchek have both indicated that they are willing to review as well as improve upon or adjust the 1033 Program per the request of Congress (Estevez & Harnitchek, 2014). To increase oversight of the program, the DLA is planning to increase cooperation with DoJ and DHS to ensure that they are informed of law enforcement agency suspensions or dismissals from the 1033 Program to safeguard current or future grant programs that may be provided to these agencies that show an inclination for higher risk or abuse of grants (Estevez & Harnitchek, 2014). The DLA is considering amending the MOA to mandate that any law enforcement agency seeking an armored vehicle, or other equipment that necessitates specialized training, develop and present a training program to ensure proper use (Estevez & Harnitchek, 2014). Prior to making any adjustments to address the current concerns of the 1033 Program, the DLA along with the state coordinators have denied approximately 25 percent of requests from participating law enforcement agencies based on a variety of reasons to include agencies being too small or unable to justify the need for some

items, or the state coordinator indicated a lack in confidence in the requesting agency to properly utilize the requested equipment (Estevez & Harnitchek, 2014). Additionally, a certain level of accountability and transparency exists within the program as all approved requests are documented and available to state coordinators and the respective law enforcement agency and the DLA is required to notify state coordinators of law enforcement request that have been denied (Estevez & Harnitchek, 2014).

At the same hearing, Shelton (2014), the director and senior vice president for policy and advocacy of the Washington Bureau of the NAACP recommended the 1033 Program require all law enforcement agencies develop and implement internal policies that promote restraint with the use of force as well as the annual training regarding the use of force and anti-racial profiling before any equipment or funds be transferred to the requesting law enforcement agency. Shelton (2014) suggested that the equipment be used to protect the citizens of the community and that the 1033 Program should focus only on permitting the transfer of non-lethal equipment to law enforcement agencies and prohibiting the use of this equipment at civilian protests or on the war on drugs and the war on crime that has been waged on the American citizens. Shelton (2014) also said that the NAACP advocates the idea of transparency throughout the entire 1033 Program in that the DoD, as well as participating law enforcement agencies, fully disclose to the public—in either an annual or semiannual report—a list of equipment that has been requested and obtained, as well as the intended purpose and potential use of the equipment. Throughout this testimony, Shelton (2014) identified the NAACPs desire in insisting the establishing of clear guidelines, policies, and plans for continued training to ensure that the equipment being transferred through the 1033 Program is used properly for the benefits of law enforcement as well as the citizens they serve.

Although Lomax (2014) provided testimony as to the many benefits the 1033 Program provided to law enforcement efforts so far, he also recognized that improvements to the program could be implemented to counteract current concerns that provide additional oversight to ensure law enforcement agencies are acting responsibly and providing transparency in the use of the transferred equipment. Lomax (2014) added that currently there is no mandate for law enforcement agencies to show current or future training plans or even demonstrating current proficiency for the use of the equipment acquired through the 1033 Program. He further noted the acquiring law enforcement agency is responsible for all training associated with the acquired equipment and that even this is voluntary. Lomax (2014) suggested that regulations and training should not be the sole responsibility of those in charge of the 1033 Program, the community, the media, or even government officials. Instead, law enforcement agencies should be focused on making a concerted effort to not only prove their willingness in implementing remedies to assure proper training and responsibility are accomplished, but to educate the public as to the many roles and responsibilities of law enforcement and to legitimately explain the intended and potential purposes of the requested and acquired controversial 1033 Program equipment and weapons (Lomax, 2014). He recommended that the 1033 Program screening process be enhanced in that law enforcement agencies applying for equipment should be required to realistically validate the need for requested equipment based on “current threat assessment matrices” (p. 5) as well as establish and maintain training and policies regarding requested equipment before the transfer of any equipment occurs (Lomax, 2014).

The ACLU (2014) clearly holds the position that the 1033 Program incentivizes police militarization and that there is an extreme lack of federal oversight regarding the program as well. The ACLU (2014) criticized the lack of overall accountability of the 1033 Program and

suggested that it is incumbent upon Congress to stop the transfer of automatic and semiautomatic weapons as well as armored vehicles. Although there are many levels of accountability within the program 1033 Program, Else (2014) noted that neither the 1033 Program nor Congress mandate routine reporting of audits to assure the program is operating as planned. Because of this lack in routine reporting, the ACLU (2014) suggested the requirement that the Secretary of Defense report directly to Congress compliance and noncompliance documentation for all law enforcement agencies participating in the 1033 Program and to suspend participation of agencies that do not prove compliance. Even with the recent concerns expressed over the lack of oversight and accountability from many different outlets, the DLA temporarily suspended six states from participation in the 1033 Program in fiscal year 2014 for failing to comply to inventory accountability procedures and two states were still suspended from utilizing the program as of late 2014 (Estevez & Harnitchek, 2014).

### **Theoretical Framework**

With all of these elements taken into consideration, the purpose of this qualitative research method study is to focus on how the federal government and law enforcement must carefully examine the intended purpose of the 1033 Program and how equipment acquired through the program can be utilized in a manner that does not further promote police militarization or degrade police-community relations. This research will be framed in the context of the competing concerns regarding the 1033 Program, the Posse Comitatus Act of 1878, police militarization, as well as police-community relations that stem as a result of the continued operation of the 1033 Program. The hypothesis for this research is: As part of the 1033 Program, the U.S. government should supply guidance regarding how the equipment should be used (i.e. for natural disasters and homeland security), establish a clearer role of the Posse Comitatus Act

of 1878, explore potential effects of incorporating equipment acquired through the 1033 Program has on police-community relationships, and law enforcement agencies should develop public relations campaigns to educate communities on the purpose and policies related to their acquisition of military equipment. By focusing on developing specific guidance on how law enforcement agencies around the country must utilize equipment acquired through the DoD's 1033 Program, communities can be reassured that although law enforcement agencies may possess military weapons and vehicles, this equipment can only be used or deployed under strict circumstances and that accountability does exist to prevent misuse.

### **Research Questions**

There are many questions that can be answered through research surrounding the operation of the 1033 Program, however, this research focused on police militarization, police-community relations, and oversight of the 1033 Program. The research questions addressed in this study are: what specific issues does the DoD's 1033 Program cause for law enforcement and the communities they serve; what changes, if any, must be implemented in the DoD's 1033 Program that would prevent the further erosion of police-community relations; can the DoD's 1033 Program continue in its current state without perpetuating a real or perceived militarized police force; to what extent does the equipment acquired through the DoD's 1033 program benefit law enforcement in serving and protecting their communities; should more oversight and control be implemented in the DoD's 1033 Program to prevent law enforcement from obtaining certain excess military equipment?

### **Research Design**

### **Methodology**

The research method used in this study is the qualitative research method. This method was selected as best because the proposed research is heavily dependent upon the analysis of qualitative data. This research was conducted by collecting and then organizing information from secondary sources such as scholarly and peer-reviewed journal articles, government research and reports, research institution publications, books, archival research through the American Public University online library, organizational websites, as well as tertiary sources such as media articles. Although tertiary sources were used sparingly—as they are neither scholarly nor peer-reviewed sources—they provided aid in developing an understating of current issues and concerns regarding police militarization, the 1033 Program, and police-community relations. After this initial research is accomplished, a critical analysis of all relevant literature and information will be conducted to examine the variables such as the effects of the 1033 Program on the community, law enforcement and furthering police militarization, the federal government, and ultimately, police-community relations.

### **Limitations**

There are a few clear limitations in conducting this research. First, although there has been a concern over police militarization for several decades, recently there has been a resurgence in reporting about police militarization, the DoD's 1033 Program, as well as police-community relations, since the summer of 2014 as a result of the events that transpired in Ferguson, Missouri. This has resulted in an abundance of media reports and news articles from both reputable and unreliable sources, as well as many opinion pieces disseminated through social media outlets, reporting information regarding police militarization, the 1033 Program, and police-community relations that is often based on the sensationalizing of information rather than reporting facts. Utilizing these media reports and articles that provide opinions that are not

always based on information grounded in scholarly research, peer-reviewed journal articles, and government reports, would possibly lead to biased and flawed research and results which would contribute useless information to this debate. Secondly, although President Obama claimed that the White House would review the 1033 program (Landler, 2014), the official findings of this review have yet to be completed and made public for review and inclusion in this particular research. Therefore, this research mainly utilized existing information that was published prior to the post-Ferguson resurgence regarding police militarization, the DoD's 1033 Program, and police-community relations. Thirdly, this research did not fully take into account the many other federal programs that provide funds to federal, state, and local law enforcement agencies to purchase supplies, equipment, or vehicles to aid in domestic preparedness programs or programs that focus solely on counterterrorism or counternarcotic initiatives that are not directly connected to the 1033 Program. It is well beyond the intended purpose and scope of this research to intensely and meticulously examine the exact items that were purchased by each law enforcement agency with the funds provided by other programs while also attempting to classify the property as having military or non-military characteristics. Additionally, this research does not examine every nuance of the 1033 Program and was intended to focus on the end results the program may have on police militarization and police-community relations, regardless if they are identified as being positive or negative. Finally, this research was restricted and limited due to a strict time constraint that requires this project to be completed by a certain date. Thusly, the time constraint will not allow for an extended and continual review of scholarly and peer-reviewed journal articles, government research and reports, research institution publications, books, archival research through the American Public University online library, organizational websites, as well as tertiary sources such as media articles after the research phase is accomplished as the

accumulated research must eventually be reviewed, analyzed, and condensed for final presentation.

### **Findings/Results/Discussion**

#### **Blurring Roles and Police-Community Relations**

The examination of scholarly literature, government reports and hearings included in this research have identified many negative factors that have resulted from the implementation of the 1033 Program which has directly answered the research question asking what specific issues does the DoD's 1033 Program cause for law enforcement and the communities they serve? Although the 1033 Program had recently been implicated as a major contributor toward police militarization through the blurring of roles between military and law enforcement functions as well as providing a gateway for the acquisition of military equipment, weapons, and vehicles (ACLU, 2014; Hall & Coyne, 2013; JPI, 2012, Shelton, 2014), this connection is not a newly discovered phenomena. The 1033 Program has existed in its current form since 1997 and was introduced to transfer excess property from the DoD to federal, state, and local law enforcement agencies for the purposes of counternarcotic and counterterrorism initiatives (DLA, 2015). Furthermore, police militarization has roots dating back even further with the creation of SWAT teams in the 1960s and the expanded incorporation of military style weapons, vehicles, and training regardless of how crude they were in the early years of development (James & Else, 2014; Kraska, 2007). More recently, the war on terror has increased the blurring of roles between law enforcement, the federal government, and military functions by sharing tactics, information, and equipment that are necessary to carry out domestic preparedness initiatives (ACLU, 2014; Hall & Coyne, 2013; Hill & Beger, 2009; Kohn, 2009).

In their testimony, Estevez and Harnitchek (2014) maintained that the overwhelming majority of equipment transferred through the 1033 Program to law enforcement agencies, such as office furniture and medical aid kits, are not regulated by the military or federal government and do not possess characteristics that are exclusively militaristic in their design. NPR also reported that their investigation of the 1033 Program found that although MRAPs represent the largest value of items transferred, these vehicles as well as weapons only represent a very small portion of the overall items provided to law enforcement agencies (Rezvani, Pupovac, Eads, & Fisher, 2014). However, a majority of the available scholarly literature, government reports, and hearings surrounding the 1033 Program concentrate on transferred equipment that possess overt military characteristics such as firearms, and MRAPs, even though Estevez and Harnitchek assert that these items only make up a very small percentage of the total items transferred. Although Estevez and Harnitchek established that the majority of equipment transferred through the 1033 Program is not controlled and does not possess military characteristics, it is important to recognize that the 1033 Program does in fact provide local, state, and federal law enforcement agencies with access to equipment, weapons, and vehicles that possesses military characteristics. Weapons, specifically firearms, are developed for obvious purposes and law enforcement already has access to many different styles of firearms—ranging from handguns to rifles—as they are accessible for purchase for law enforcement purposes even without access through the 1033 Program. Depending on state and federal regulations, many civilians have access to numerous different styles of firearms that law enforcement agencies possess as well. However, Estevez and Harnitchek noted the 1033 Program does not provide weapons and vehicles such as “tanks, fighter aircraft, Strykers, tracked vehicles, weapons greater than 7.62mm, grenade launchers, sniper rifles, crew-served weapons” (p. 3) to law enforcement as they are reserved for combat purposes.

Taking into account the many contributors that have exacerbated police militarization, the two major concerns that surround the 1033 Program and the effects it has on police-community relations are SWAT teams and MRAP vehicles. For example, even though SWAT teams have existed for decades, the creation of new teams have multiplied substantially among law enforcement agencies throughout the country (ACLU, 2014). Deployment of SWAT teams have significantly increased as they are no longer being strictly reserved for response to high-risk events as originally intended (ACLU, 2014; James & Else, 2014; Kraska, 2007). This has resulted in increased contact with the public and SWAT teams becoming normalized as they are primarily being deployed for drug raids that have been recognized as being overwhelmingly deployed on minority populations (ACLU, 2014; Hill & Beger, 2009; JPI, 2012). As more citizens become exposed to SWAT teams and the equipment that has been acquired through the use of the 1033 Program this creates distrust within minority populations and further weakens police-community relations (ACLU, 2014; Meeks, 2006). With the 1033 Program linked to the increase in police militarization and the rise in the creation and deployment of SWAT teams as well as the weakening of police-community relations, an option is to determine methods to more appropriately gauge an incident that may or may not require the use of SWAT teams. Yet this will remain a difficult task as there is no room for error as law enforcement officers should not be expected to take unnecessary risks to appease the concerns of citizens and citizens should not be subjected to unnecessary force. Although it is inherently recognized that a certain level of militarization is required among law enforcement specifically in regards to SWAT teams, however, to enhance police-community relations, there is an overwhelming need for additional oversight regarding the deployment of these teams so to prevent further normalization and excessive use (ACLU, 2014; Kraska, 2007).

In reference to MRAPs, Senator McCaskill (2014) focused heavily upon these types of vehicles in her opening statement provided during the hearing on the *oversight of federal programs for equipping state and local law enforcement*. The intimidation factor alone associated with the use of armored vehicles, as Senator McCaskill (2014) mentions, as well as the deployment of MRAPs that were specifically designed for military purposes on a battlefield during civilian protests in Ferguson provided an undeniable connection to the concern of the blurring of roles between law enforcement and military functions. To quell concerns, Estevez stressed in his response to Senator McCaskill that all MRAPs are stripped of all proprietary military electronics and weapons prior to being transferred to law enforcement agencies and are only armored vehicles at this point and do not provide offense support for law enforcement personnel (“U.S. Senate committee, 2014). Although MRAPs do not contain sophisticated military equipment designed for offensive missions, they still provide protection from threats such as roadside bombs and high caliber rifles and other explosions that are common to battlefields as they were designed for this purpose. Additionally, law enforcement can still utilize these vehicles as weapons platforms by adding weapons and firearms that agencies already have in their possession. While law enforcement agencies may be prohibited from purchasing MRAPs directly from the manufacturer or the military as they are only available through the 1033 Program, law enforcement agencies are not prohibited from purchasing commercially available armored vehicles in general, which does not necessarily solve the concern over the use of armored vehicles during protests that were initially viewed as peaceful.

After considering the effects of the 1033 Program on police-community relations, particularly with the influence on police militarization and SWAT teams, and the transfer of MRAPs, the literature does not suggest completely stripping law enforcement from utilizing

SWAT teams or prohibiting law enforcement from possessing and deploying armored vehicles. To improve police-community relations, the unnecessary or excessive deployment of SWAT teams must be reduced, especially during situations that do not exhibit a high-risk for danger or the need for this specialized team. Additionally, the unnecessary use of armored vehicles and MRAPs must be reduced to prevent further erosion of police-community relations. However, to accomplish these goals, the application of additional oversight and training mandates will be necessary to ensure responsibility and accountability exists. But oversight and training mandates must be reasonable and be implemented in a manner that does not prevent law enforcement from responding appropriately to all incidents, not only based on known circumstances at that time, but preparing for the potential of escalation. Also, law enforcement agencies should not be forced to place their police officers in danger or high-risk situations without the necessary protection and equipment just to appease community leaders or local, state, or federal government officials. However, finding a compromise in determining the appropriate response or utilizing the appropriate level of force during incidents that can evolve very quickly will continue to remain a significant issue that may not result in a perfect response. This can be especially difficult when these incidents can change from peaceful events to large scale riots that have a mix of criminal and lawful elements all within the same confines.

### **Notable Benefits of the 1033 Program**

Most of the available scholarly literature incorporated in this research focused on worst-case scenarios and the negative aspects surrounding the 1033 Program. More specifically, this research has identified that the weapons, vehicles, and other equipment transferred through the use of the 1033 Program has exacerbated police militarization, contributed to the increase in the use and scope of SWAT teams, and has ultimately eroded police-community relations,

specifically among the minority populations (ACLU, 2014). Yet many positive benefits have been identified that have been attributed to the existence of the 1033 Program. These benefits have directly answered the research question asking, to what extent does the equipment acquired through the DoD's 1033 program benefit law enforcement in serving and protecting their communities? Most notably, the 1033 Program has provided law enforcement with access to equipment and vehicles that are instrumental for domestic preparedness initiatives and emergency response to natural and man-made disasters (Stockton, 2011). Vehicles obtained by law enforcement agencies through the 1033 Program have been used on several occasions to rescue stranded and injured citizens during floods and other weather related events, as well as during rescues of lost or injured hikers (Bueermann, 2014). For example, high ground clearances of MRAP vehicles allow emergency crews to traverse areas both safely and effectively that normal civilian vehicles could not navigate and even helicopters and boats provide effective means for emergency rescue operations that would otherwise be impossible without access to these vehicles (Lomax, 2014). Additionally, armored vehicles have been instrumental in providing essential protection for both citizens and law enforcement officers during high risk incidents such as hostage and barricades events (Lomax, 2014). Although helicopters and boats obtained through the 1033 Program have been used during rescues, many of these vehicles have similar civilian counterparts that can be purchased on the open market without special permission.

Additionally, the 1033 Program supports law enforcement efforts aimed at counterdrug and counterterrorism efforts. Although the focus has been on minimizing the effectiveness of the war on drugs (ACLU, 2014; Shelton, 2014) which has merit to varying degrees, this should not deter from the importance that the 1033 Program has on counterterrorism efforts. Even though

the events on 9/11 occurred well over a decade ago, terrorism is still a very real threat as was evidenced by the bombings at the Boston Marathon in 2013. Although the overall damage caused between these two incidents vary greatly, and the aggressors had different intentions, this should not detract from assuring that law enforcement is prepared to face the threat of terrorism. Lomax (2014) recognized that the Boston Police Department and several other agencies that assisted during the search to locate the suspects involved in the Boston Marathon bombing had access to several armored vehicles as well as thermal imaging that was essential to providing protection to law enforcement officers and in locating the remaining suspect. These high-profile incidents obviously do not occur on a routine basis, however, failing to provide law enforcement access to the 1033 Program and equipment that has military characteristics could effectually reduce law enforcement's response and overall capabilities in stopping or preventing further harm and damage during the next terrorist event.

Ultimately, as Bueermann (2014) purported, the 1033 Program allows free access to helicopters, boats, and armored vehicles that are often needed by many law enforcement agencies, especially when they do not have the funds to make such large purchases. Since the program provides equipment free of charge to law enforcement agencies, DoD obviously does not profit, however, instead of dismantling, storing, or disposing of the equipment, weapons, and vehicles that potentially cost billions of dollars to purchase, there is a common consensus that the 1033 Program ultimately saves money by not placing a burden on taxpayers by not having to purchase these items twice (Bueermann, 2014, Estevez & Harnitchek, 2014; Lomax, 2014). Contrary to this claim of free access, maintenance costs are burdened by the acquiring law enforcement agency and not the DoD or any other entity involved in the 1033 Program (Estevez and Harnitchek, 2014). This can lead administrators and other officials who have a certain

amount of oversight on the use of this equipment to pressure law enforcement to routine deploy equipment obtained through 1033 Program that exhibit military characteristics during events that do not require the use of this particular equipment all in an effort to justify maintenance expenditure (Bueermann, 2014). According to the ACLU (2014), another important factor to consider is that the 1033 Program requires law enforcement agencies to use acquired equipment within one year of receipt which again often causes law enforcement agencies to normalize the use of equipment with military characteristics even if it does not serve a specific purpose during this timeframe. Since these two examples essentially force law enforcement agencies into deploying equipment with military characteristics during scenarios that do not dictate its use, the only other option would be to leave the equipment in a state of disrepair and return items obtained through the 1033 Program back into the DoD which would prevent law enforcement from having access to certain equipment that may truly be needed for rare but possible high-risk events.

Yet taking into consideration the concerns that the 1033 Program intensifies police militarization, increases the formation and deployment of SWAT teams, and normalizes the unnecessary deployment of equipment that has military characteristics based on pressure from other entities, the program also allows for better emergency preparedness and response during search and rescue operations and counterdrug and counterterrorism efforts. Even though it is essential to recognize the positive and negative aspects of the 1033 Program, it is important to recognize that each aspect serves to identify a distinct difference in how the program is either beneficial to law enforcement or detrimental to society. Lumping the entire 1033 Program into one category that either supports or disapproves of the program would be disadvantageous to both law enforcement and citizens as much of the equipment has the potential to be utilized

during multifaceted roles such as during search and rescue missions, high-risk events requiring police response, as well as with counterdrug and counterterrorism efforts.

### **The Posse Comitatus Act of 1878.**

The current debate regarding the 1033 Program and police militarization has also been connected to the Posse Comitatus Act of 1878 as the federal government and the military have been providing support to domestic law enforcement agencies via equipment, weapons, and vehicles. However, contrary to popular belief, the Posse Comitatus Act of 1878 was not created with the foresight of separating military and domestic law enforcement roles to prevent the militarization of police (Brinkerhoff, 2002). The Posse Comitatus Act of 1878 was initially created to prevent the US Marshals and sheriffs from utilizing military forces to enforce the Fugitive Slave Act of 1850 and to prevent voter intimidation that was suspected of occurring in the southern states leading up to Presidential elections in 1876 (Brinkerhoff, 2002; Doyle & Elsea, 2012; Hall & Coyne, 2013). Additionally, Brinkerhoff (2002) has maintained that this act does not prevent the military from providing support to domestic law enforcement especially since the National Defense Authorization Act for Fiscal Year 1997—which contained the provisions for the 1033 Program—was authorized by Congress and therefore does not violate the Posse Comitatus Act of 1878. The erosion of the Posse Comitatus Act of 1878 is purported to have progressed even further by supporting the militarization of police as the war on drugs in the 1970s and 1980s, and more recently with the war on terror in the 2000s, which have all depended on increasing levels of cooperation between domestic law enforcement and the military. Although there have been several court cases in the early-to-mid-1970s that have successfully established that the Posse Comitatus Act of 1878 was violated during incidents involving both law enforcement and military cooperation, none have produced noticeable results other than

establishing that there are very few repercussions for those that have violated the act (Hall & Coyne, 2013).

Taking into consideration the existence of the Posse Comitatus Act of 1878, in conjunction with the 1033 Program and the continued expansion of police militarization, several options have been identified to address the concerns regarding the usefulness of the act. Bloeser (as cited in Hill & Beger, 2009) suggested the addition of stiffer penalties for violations of the Posse Comitatus Act of 1878 to include increasing prison sentencing, requiring restitution to victims of violations, holding those who failed to provide proper supervision in preventing violations of the act accountable, and also developing a method for military personnel to report violations of the act anonymously, all without changing the foundation of the original act. However, adding stiffer penalties for violations of the Posse Comitatus Act of 1878 would be fruitless as there are no known examples in which anyone had been prosecuted under this act (Brinkerhoff, 2002; Doyle & Elsea, 2012). Brinkerhoff (2002) indicated that the lack of prosecutions may be attributed to the notion that only head of the local law enforcement agency who violated the act and the commander of the local military unit would be prosecuted and not any members of the Army. Conversely, Brinkerhoff (2002) believed the Posse Comitatus Act of 1878—written in its current form—is antiquated and reflects the specific threats of that time period—freedom and slavery. He recommended that the act be rescinded and rewritten in a manner that does not allow for misinterpretation and lays a proper foundation for asserting the roles of both the military and law enforcement under the current threat of terrorism.

The Posse Comitatus Act of 1878 plays a significant role in the history of the United States as evidenced but it is obviously impossible to determine the outcome of the suggestions that impose stricter penalties for violations of the act or if it was rewritten, therefore any claims

that suggest changes to the act are purely speculative. Although DoD provides equipment, weapons, and vehicles to law enforcement, the military is essentially acting in a supporting role and has not taken over federal, state, or local law enforcement agencies and is certainly not actively involved in investigating crimes, enforcing laws, or making arrests of citizens in the United States as Brinkerhoff (2002) noted. Congress has the capability to make changes to the Posse Comitatus Act of 1878 which it has done so several times in the past (Brinkerhoff, 2002). However, even if the Posse Comitatus Act of 1878 is often misinterpreted, as Brinkerhoff (2002) argued, there is one fundamental demand the act requires that allows the 1033 Program to exist which is that the program has been approved by Congress as was addressed in the National Defense Authorization Act for Fiscal Year 1997. Since the 1033 Program was approved by Congress, the program does not violate the Posse Comitatus Act of 1878 even if it blurs the roles between the military and law enforcement and exacerbates police militarization.

### **Government and Law Enforcement Accountability**

The scholarly literature, government reports and hearings included in this research regarding the 1033 Program have nearly all identified the need for additional oversight to ensure the program operates in the best interest of all involved entities to include the DoD, DLA, LESO, state coordinators, law enforcement agencies as well as the citizens. Contrary to recent concerns regarding the lack of oversight, an examination of this information has identified that the 1033 Program actually has provisions that provide a certain amount of internal accountability and oversight. Law enforcement agencies simply do not request equipment, weapons, or vehicles directly from DoD. Furthermore, the entire 1033 Program is managed by LESO and therefore maintains authority over all requests (Else, 2014). All request for items made by law enforcement agencies through the 1033 Program must initially pass through the state coordinator

to the DLA for approval before equipment is transferred, and requests can be denied at any stage for any reason (Else, 2014). Participation in the 1033 Program can be suspended for many reasons ranging from improper use and accountability of equipment, misappropriation, exploitation, and even for a lack of confidence in the abilities of the requesting agency to utilize the equipment properly has been evidence by a an approximate 25 percent denial rate in all request made through the program (Estevez & Harnitchek, 2014). Additionally, all items transferred through the 1033 Program remain the property of DoD for the first year after provided to the requesting law enforcement agencies, however, items categorized as non-controlled, such as office supplies or first aid kits will be retained by the requesting agency after the one year time frame (Else, 2014). Controlled items such as guns, armored vehicles, or other equipment that have military characteristics will always remain the property of the DoD and can be reclaimed at any time (Else, 2014).

Although several layers of oversight and accountability within the program do exist, the events that occurred in Ferguson, Missouri in the summer of 2014 have raised doubts that equipment obtained though the 1033 Program is being utilized properly and is leading to the militarization of police (Bueermann, 2014; Grasso, 2014; James & Else, 2014; Kraska, 2014; Shelton, 2014). Two research questions—should more oversight and control be implemented in the DoD’s 1033 Program to prevent law enforcement from obtaining certain excess military equipment, as well as, what changes, if any, must be implemented in the DoD’s 1033 Program that would prevent the further erosion of police-community relations—have been directly addressed by the literature gathered for this research. For example, the most promising response concerning oversight and accountability comes directly from testimony provided by Estevez and Harnitchek (2014), the principal deputy under the Secretary of Defense for acquisition, logistics,

and technology and the director of the DLA respectfully, both of which are directly involved in the 1033 Program. Although Estevez and Harnitchek (2014) insist that neither the DoD or any part of the 1033 Program pushed equipment upon law enforcement agencies, their testimony indicated a willingness to review the 1033 Program as well as to improve or adjust the program per the request of Congress. Also, the DLA is currently taking into consideration the requirement that law enforcement agencies establish training mandates before they are given access to armored vehicles (Estevez & Harnitchek, 2014).

However, as Lomax (2014), Estevez and Harnitchek (2014) have established, the DoD currently is not responsible for training on any of the equipment transferred through the 1033 Program and certainly does not regulate or mandate any training standards. The DoD is only responsible for the costs associated with program management and does not regulate or dictate the circumstance surrounding the deployment of transferred equipment, such as how or when it may be used (Else, 2014; Lomax, 2014). This has identified that there is a significant disconnect in the operation of the 1033 Program as the DoD and the rest of the entities that are involved in the 1033 Program are simply passing responsibility onto law enforcement agencies and apparently hoping for a positive outcome which is not what transpired as the current debate regarding the 1033 Program has indicated. Even if law enforcement agencies are required to develop and present minimum training mandates before they are given access to armored vehicles as Estevez's and Harnitchek's (2014) testimony indicated this does not necessarily specify that the DLA has concerns over other items that have military characteristics such as weapons that are transferred through the 1033 Program. Although armored vehicles and MRAPs have been an important issue in the debate over the efficacy of the 1033 Program, focusing on mandated training for vehicles addressed one specific area of concern. But this can be attributed

to this testimony being provided only a few months after the concerns regarding law enforcement's response to events in Ferguson, Missouri and that a review of the entire program has not yet been completed (Estevez & Harnitchek, 2014).

Shelton (2014) suggested that the 1033 Program should only be permitted to transfer non-lethal equipment to law enforcement agencies and that the equipment should not be used on civilian protests or on the war on drugs and the war on crime as the results of these two wars have disproportionately and negatively affected minorities. His suggestion is not outlandish as the transfer of non-lethal equipment could still prove very useful to federal, state, and local law enforcement agencies depending on the application. Shelton's testimony is unique as he focuses more heavily upon racial overtones connected with police militarization and the 1033 Program. Although his concerns are validated by supporting facts, Shelton ignores the importance of counterterrorism efforts as well as other more common events that often require more than a non-lethal approach. Whereas the majority of suggestions focus on requiring additional accountability and oversight of the equipment transferred through the 1033 Program, Shelton has focused on limiting the program in a manner that could significantly hinder law enforcement's response to high-risk incidents as budgets often prevent agencies from obtaining necessary equipment that the 1033 Program provides (Bueermann, 2014). However, Shelton's (2014) overall message of accountability, oversight, increased training and transparency, as well as reducing access to military equipment promotes changes that have the potential to mend police-community relations, and to reduce police militarization.

Senator McCaskill (2014) expressed concern regarding the efficacy of the 1033 Program and specifically addressed that local and state law enforcement agencies—regardless of size—have possession of more MRAPs than the National Guard. However, it is important to recognize that the

National Guard and federal, state, and local law enforcement agencies do not share common roles. Law enforcement is the first level of response to domestic emergencies and actively enforces law as a primary and routine function whereas the National Guard can only be activated by their respective state governors for specific national emergencies (Brinkerhoff, 2002). Questioning why law enforcement has more MRAPs than the National Guard is an important concern but this issue can only be properly addressed by determining if access is being denied to the National Guard because they are being transferred to law enforcement first and there is an inherent oversight regarding prioritization or the National Guard in certain states is not requesting acquisition for various unknown reasons. Additionally, there is the possibility that since law enforcement is continuously active there is a higher propensity for the deployment of acquired MRAPs. This leads to these MRAPs being maintained at a constant level of readiness without DoD oversight and funds and ensures to a certain extent that the DoD can reclaim a functioning vehicle in the event that they are again needed for military purposes. Senator McCaskill (2014) also noted that approximately 36 percent equipment that is transferred through the 1033 Program is new and expressed concern that the program is not utilizing its resources in a cost effective manner. This is a valid concern as over \$2.2 billion in property has been transferred through the program in just the last four years alone (Grasso, 2014). However, the main purpose of the 1033 Program is to reutilize excess equipment that is no longer needed by the DoD and with end of the wars in Iraq and Afghanistan that lasted over ten years there was bound to be excess equipment that was purchased years in advance before the realization that it was no longer needed for its intended purposes. This is evidence by the \$50 billion invested by the United States in 2007 to build 27,000 MRAPs that were deployed to Iraq and Afghanistan that are no longer needed for their intended purposes, and this certainly explains why there has been a significant increase in MRAPs being transferred to federal, state, and local law enforcement agencies (ACLU, 2014).

The ACLU (2014) directly stated that the 1033 Program incentivizes police militarization and disapproved of the overall lack of accountability at all levels. To prevent further police militarization, the ACLU (2014) proposed that Congress should stop the transfer of automatic and semiautomatic weapons and armored vehicles in addition to the requirement that all parties involved be more proactive in constantly assessing the program as well law enforcement participants. However, Grasso (2014) noted all of the equipment available under the 1033 have commercial counterparts or request through other grant programs. This indicates that even though the 1033 Program is a source that provides law enforcement with equipment, weapons, and vehicles that have military characteristics, other sources may significantly contribute to police militarization and the erosion of police-community relations as well. This should not distract from the focus on the examination of the efficacy of the 1033 Program, however, these other sources should be taken into consideration as well to determine just how effective their influence is on police militarization and police-community relations.

Bueermann (2014) noted the 1033 Program operates much differently than if a law enforcement agency were to purchase similar equipment or vehicles commercially. Bueermann (2014) added that the 1033 Program only requires a requesting law enforcement agency to submit requests to the state coordinator which do not need permission from their respective local governments, however, many agencies must justify the need for equipment and other large purchases through their respective governments that control their budgets. Since the 1033 Program does not require the approval of their respective local government that normally controls budgets and large purchases, taking possession of some pieces of equipment or vehicles may actually force law enforcement agencies to apply their use to routine situations that do not normally require deployment based on pressure from those that control their budgets in an

attempt to justify the need and maintenance for such equipment (Bueermann, 2014). However, because of the pressure to justify the use of this equipment or vehicles, the display or deployment may unintentionally contribute to the erosion of police-community relations and promote police militarization. Bueermann (2014) expressed a balanced approach toward additional oversight of the 1033 Program and to ensure that the proper steps are taken to prevent the erosion of police-community relations as well as to curb continued police militarization, input from the community and the local government should be taken into consideration before any request for equipment and vehicles are submitted to the state coordinator. Additionally, he noted that law enforcement agencies should be mandated by the DoD to develop and implement training programs as well as internal policies that would clearly identify justifications for the deployment of equipment obtained through the 1033 Program that exhibit military characteristics such as armored vehicles and weapons (Bueermann, 2014). Bueermann (2014) suggested that law enforcement agencies should be required to document how many times this equipment was used as well as the purpose behind its deployment. Furthermore, Bueermann's (2014) suggestions clearly established internal and external methods that both law enforcement and DoD can incorporate to improve oversight and accountability within the 1033 Program. Although Bueermann (2014) suggested DoD mandate certain requirements before equipment can be transferred, law enforcement agencies are still held responsible for the majority of the work. This not only follows the initial guidelines Congress set forth regarding the 1033 Program, such as DoD should not be responsible for any costs other than management of the program (Else, 2014), but it also forces all law enforcement agencies to actively engage in addressing the issues of police militarization, police-community relations and mistrust.

The research question—can the DoD’s 1033 Program continue in its current state without perpetuating a real or perceived militarized police force? —was answered through the examination of the literature and documents and overwhelming indicated that changes must be made to the program to prevent this from occurring. First, even though police militarization, police-community relations, and the future of law enforcement in the United States are very important topics that are at the center of attention at this specific time, if the 1033 Program is left in its current state there is a possibility that concerns regarding the program will fade away as new high-profile incidents occur and garner the attention of the public. Secondly, the DoD could follow through with tightening restrictions on the 1033 Program by requiring agencies to develop and present training mandates before certain equipment with military characteristics is transferred, however, if follow up investigations are not conducted to ensure that law enforcement agencies are following their own training and policies in regards to this program, any current concerns will continue. Thirdly, if DoD, along with all other entities of the 1033 Program such as the DLA, LESO and state coordinators become more involved in every step of the program and implement policies and procedures similar to those presented by Bueermann (2014) regarding mandated training, accountability, public and local government input, the 1033 Program will be able to continue in providing federal, state, and local law enforcement agencies with excess equipment, weapons, and vehicles while reducing unnecessary transfers and ultimately the unnecessary deployment of equipment with military characteristics within communities. Yet encouraging accountability within the 1033 Program only addressed one aspect that is believed to cause police militarization and the erosion of police-community relations. Even if the entire 1033 Program is shut down, law enforcement agencies will still be able to purchase equipment with military characteristics from the civilian market because the

DoD often advocates equipment and weapons created for the military possess dual-use functions for civilian or law enforcement applications (Campbell & Campbell, 2010, Stockton, 2011).

SWAT teams will continue to exist and the influence from the war on terrorism and other domestic preparedness initiatives will add to the blurring of roles between law enforcement and military functions which the ACLU (2014), along with Kraska (2007) indicate as major contributor toward the erosion of police-community relations. Moreover, programs and grants provided by the U.S. Department of Justice and the Department of Homeland Security contribute to police militarization in various manners that may need to be addressed as well (Shelton, 2014).

However, contrary to the overwhelming willingness to address accountability and oversight of the 1033 Program, none of the literature examined for this research has indicated any support for the program to be left in its current state or that any additional requirements would be detrimental to the overall operation of the program or to federal, state, and local law enforcement agencies. There is an obvious divide in support of the 1033 Program between those that are part of the program such as persons associated with law enforcement and the actual 1033 Program, and those that represent the community. A portion of this divide can be explained by the notion that those who support the program benefit the most from its existence whereas those who do not support the 1033 Program in its current state benefit the least such as with citizens in which equipment and vehicles acquired through the 1033 Program are used against in various forms whether warranted or not. However, even if this divide is not intentional it is still a very real problem that needs to be addressed through some level of reform that is acceptable to both sides of the debate which is a very realistic approach. Even though a divide exists there appears to be a common consensus that the program requires reform in certain areas to assure accountability, responsibility, control. This includes regulating deployment of certain pieces of

equipment and vehicles under more strict circumstances and to assure the community that the 1033 Program does not exist for the purposes of separating law enforcement and the community.

After the examination of all literature scholarly and peer-reviewed journal articles, government research and reports, research institution publications, books, archival research through the American Public University online library, organizational websites, as well as tertiary sources such as media articles it is clear that the research has generally supported the hypothesis in its entirety. First, there was an overwhelming consensus that DoD should implement oversight and accountability of the 1033 Program by requiring participating law enforcement agencies to develop and submit training program prior to the transfer of equipment exhibiting military characteristics. Second, there are various interpretations of the Posse Comitatus Act of 1878 that indicate various connections with the 1033 Program. Although the literature supported a variety of methods to clarify the act that ranged from rescinding and then rewriting the act to reflect the current state of security concerns in the United States, to enhancing penalties for violations of the act, currently, there does not seem to be a legitimate movement toward clarifying the Posse Comitatus Act of 1878. Third, the 1033 Program was linked to police militarization as well as contribute to the erosion of police-community relations through the increased use of SWAT teams, military equipment, and armored vehicles on the public under circumstances that often do not require its use. Finally, there is support for increasing public relations with communities by incorporating public input before law enforcement agencies submit an application for equipment through the 1033 Program. There is also support for transparency by making policies available to the public regarding the intended purpose for acquiring the equipment, implemented training standards, and policies surrounding deployment.

## **Recommendations**

An examination of the literature identified a consensus that the 1033 Program is in need of reform, however, the extent of reform varied from focusing on accountability, implementing training mandates, and placing heavy restrictions on the program that only allow for the transfer of non-lethal weapons and equipment are realistic propositions for reform. However, a more worthy approach to reform the 1033 Program should be the implement programs that have already existed for several decades and have established credibility in their worth. Two programs that can accomplish this task are the Community Oriented Policing Services (COPS) and the Commission on Accreditation for Law Enforcement Agencies (CALEA). Each of these programs provide a different approach toward establishing credibility and accountability within law enforcement and contribute toward rebuilding trust and cooperation between communities and law enforcement agencies in a structured manner.

**Community Oriented Policing Services.** Although the use of SWAT teams and the paramilitary function will continue to function within law enforcement profession to varying degrees, law enforcement agencies do not have to follow one path or one specific style of policing. For example, the COPS program was developed to combat the sharp increase in crime through the introduction of the Violent Crime Control and Law Enforcement Act of 1994 which focused on providing funds to law enforcement agencies to hire more police officers. The COPS program offers an alternative method of policing that builds an enhanced level of cooperation between law enforcement agencies and the communities they serve by empowering the community to take an active role in reducing crime while also building a trust that often lacks in high-crime and low-income neighborhoods (Murray, 2005; Shelton, 2014). Bueermann (2014) recommended that the COPS program can coexist with the 1033 Program as long as law

enforcement creates and maintains a working relationship with the community and focuses on transparency and accountability which the COPS program itself encompasses. However, Murray (2005) argued that there may be internal influences and as well as doubts within law enforcement that desire the more traditional role of policing instead of a program like COPS. Furthermore, implementing the COPS program can be a difficult task to accomplish as Kraska (2014) argued that even with the benefits of building better relationship between the police and community, the COPS program has been unable to successfully compete with "...the seductive trapping of paramilitarism in today's society" (p. 6). Even if the COPS program does not become a dominate method of policing, the program can still be implemented alongside current practices at any law enforcement agency.

**Commission on Accreditation for Law Enforcement Agencies.** Since communities cannot always rely upon their local law enforcement agencies to develop policies and procedures that regulate and plan for response to incidents that require law enforcement's assistance, the DoD, along with local governments and communities can demand the assistance of the CALEA. CALEA (2010) was created in 1979 with the purpose of implementing standards within law enforcement agencies to "strengthen crime prevention and control capabilities; formalize essential management procedures; establish fair and nondiscriminatory personnel practices; improve service delivery; solidify interagency cooperation and coordination; and increase community and staff confidence in the agency" (Para. 2). Essentially, the CALEA program focuses on accountability within a law enforcement agency through the use of written standards that provide direction for the entire agency to follow to reduce liabilities both internally and externally while also focusing on police-community relations (CALEA, 2010). This program recognized the important roles that law enforcement must fulfill while also understanding that building a solid and trusting relationship within the community is beneficial to everyone

involved. The CALEA program involves an ongoing process that prevents policies and procedures established within a law enforcement agency from becoming stagnant by requiring annual reports and reaccreditation every three years through onsite visits (CALEA, 2010). However, there is an initial fee associated with becoming CALEA certified and can range from \$8,475 for agencies consisting of less than 25 fulltime employees, to \$19,950 for agencies consisting of more than 1,000 fulltime employees as well as an annual fee ranging from \$3,920 to \$6,215 on the same fulltime employee scale (CALEA, 2010). The initial and annual fees associated with this program may be difficult for many smaller law enforcement agencies to fulfill due to budget constraints. Additionally, agencies that do not have a large staff can face difficulty in ensuring that the demands of the CALEA program are continually met and maintained. Regardless of these two identified factors, the CALEA program can prove to be instrumental in asserting proper internal and external controls are set in place by law enforcement agencies and if DoD requires law enforcement agencies to achieve CALEA accreditation prior to participating in the 1033 Program, many problems regarding police-community relations and police militarization could be prevented at the expense of law enforcement agencies and not the DoD.

Incorporating the COPS program or mandating CALEA certification definitely will not solve every concern regarding the 1033 Program, however, each program can provide unique, yet feasible methods to ensure the 1033 Program can remain in operation and provide law enforcement agencies with important equipment while directly addressing police-community relations and police militarization. Although these programs are separate entities, they can also be used in conjunction to offset the erosion of police-community relations even further than just addressing the negative effects the 1033 Program. Regardless of the effectiveness in

implementing either of these programs, it is essential to recognize that although the current concerns surrounding police-community relations and police militarization may fade with time, the answer to these issues will never cease to exist. Therefore, it is incumbent upon all entities that are affected by the operation of the 1033 Program to continually focus on recognizing methods of improving police-community relations as neither law enforcement agencies nor communities can function at their fullest potential without some level of meaningful cooperation.

### **Conclusion**

With the events that occurred in Ferguson, Missouri in the summer of 2014, police militarization and the erosion of police-community relations have reemerged as an important concern among citizens and their communities, the federal government, as well as with law enforcement agencies. These concerns has been identified, researched, studied, and reported on by scholars and media outlets for many years. More recently, with the release of the DoJ's report on the Ferguson Police Department, there is evidence to support a systemic failure not only in the police department itself regarding police-community relations, but also with the local government that supported unfair practices against its minority population (DoJ, 2015). The decline in police-community relations that have been addressed in this report are most likely not unique or even isolated to this particular area and may quite possibly be occurring in other law enforcement agencies, local governments, and communities around the country. However, this report should not be viewed as representative of all law enforcement agencies and local governments throughout the United States, as many successfully possess great police-community relations and operate with polices that enforce accountability. Yet the concern over police militarization often fades as police-community relations constantly cycle through phases that

revolve around varying timeframes of cooperation and distrust that are usually brought on by incidents that affects large portions of society or civil unrest.

The use of MRAPs, SWAT teams, tactical equipment and weapons that exhibit obvious military characteristics have been scrutinized by scholars, Senators, and organizations such as the ACLU and the NAACP, however, it should never be overlooked that law enforcement will require various forms of protection, both defensive and offensive, to engage the numerous threats that routinely call for law enforcements response. Yet with the terrorist attacks on 9/11, mass shootings that have occurred at schools as well as in a movie theater, and more recently with the Boston Marathon bombings, it is difficult to determine how to appropriately equip and prepare law enforcement to be able to respond to a variety of events that range from a presumed routine incidents to those that require the decision to use deadly force, all in which can evolve and shift into a completely different direction with little to no notice. Although many argue that the response by law enforcement in Ferguson, Missouri was heavy-handed and in many cases unwarranted—most notably during peaceful protests—there is also the reality that many of these peaceful protests often turned violent very quickly and required a structured and more forceful response from law enforcement. However, these types of incidents involving civil unrest and disorder have identified the need to carefully examine and determine the appropriate circumstances as to when this type of equipment in question is deployed. It is also imperative to take into careful consideration that instituting prohibitive measures that too heavily restrict law enforcement's discretion in determining the appropriate level of response to events that often require quick decision making during constantly evolving circumstances may lead to undesired results and unintended consequences. Even with continuous training, the implementation of policies and procedures, as well as attempting to adapt with the constant changes in crime and

societal needs, the law enforcement profession is far from perfect. The fact that those in law enforcement can make mistakes or make good moral decisions that result in unintended consequences may be difficult for society to comprehend especially when law enforcement is the only profession in the United States that provides the power of arrest and also the ability to use deadly force under certain circumstances. However, this should not prevent law enforcement agencies from constantly striving to surpass internal and external expectations and it should not prevent society from expecting appropriate and reasonable response from law enforcement within their communities.

This research has identified that police militarization and the erosion of police-community relations resulted from many factors that are both related and unrelated to the 1033 Program that was created to provide federal, state, and local law enforcement agencies with excess equipment to assist in counternarcotic and counterterrorism efforts. There is not a scholarly consensus regarding the efficacy of the 1033 program, only testimony from those directly or indirectly involved in the operation of 1033 Program. Although this testimony provides many examples of the 1033 Program benefiting law enforcement agencies throughout the country, this information does not prove that the programs existence is paramount to providing protection to law enforcement personnel and the citizens they are charged to protect. This necessitates that further research be conducted to determine if funds provided through other government programs such as those operating through the DoJ and DHS provide sufficient resources for law enforcement with or without the 1033 Program in operation. Unfortunately, research, literature, and government reports, have mostly focused on how the 1033 Program exacerbates the militarization of police or that there is an extreme lack of accountability among the federal government as well as with all entities involved in the operations of the program.

Although many negative effects of the 1033 Program have been established, there are many notable benefits of the program as well. Since the 1033 Program provides excess property to federal, state, and local law enforcement agencies free of charge, the program provides opportunities to expand the scope of emergency responses to various incidents ranging from rescues during hurricanes and flooding to mass shootings or terrorist events such as the Boston Marathon bombings. These types of responses may not been possible without access to certain types of boats, helicopters, or vehicles that may or may not exhibit overt military characteristics. Yet regardless of the positive and negative impact that the 1033 Program has on police-community relations as well as the potential in exacerbating the militarization of police, there is a consensus among both opponents and proponents of the program that additional scrutiny and oversight is necessary to assure that the program provides the intended benefits without creating future irreversible harm to police-community relations. There is also a consensus to focus on additional training mandates to coincide with equipment that is transferred through the program and to focus on repairing community trust by encouraging cooperation between law enforcement and the communities they serve through the adoption of transparent policies and including community feedback in the decision making process before obtaining certain equipment through the 1033 Program.

With the current concern surrounding the negative impact of the 1033 Program, the Posse Comitatus Act of 1878 has been called into question because the act is widely believed to have specifically been created to place limits on domestic law enforcement and military cooperation within the confines of the United States which can only occur with direct approval from the President or Congress. However, there is a consensus that the Posse Comitatus Act of 1878 was passed to prevent the U.S. Marshalls and local sheriffs from conscripting military personnel to

support local interests such as enforcing the Fugitive Slave Act of 1850. Although the 1033 Program was approved by Congress as mandated by the Posse Comitatus Act of 1878, there is notable concern that the program has overstepped its boundaries; yet the 1033 Program does not take any personnel from any branch of the military or place them into law enforcement roles and certainly does not utilize the military in a manner that replaces local law enforcement. The literature has identified the positions that the act should either be rescinded and rewritten to apply to the current threat of terrorism or simply be changed to stiffen penalties for violations. However, as of yet, the Posse Comitatus Act of 1878 has not been rescinded or rewritten and there are no known prosecutions under the act that have resulted in any penalties indicating that act and its provisions and penalties have been largely ignored. Based on the lack of consensus regarding the Posse Comitatus Act of 1878, it is unclear if either of these changes would affect police-community relations or police militarization directly in a positive or negative manner.

This research does not support any intentions that the 1033 Program was implemented to provide a discrete method to expand militarization among law enforcement agencies that participate in the program nor create a divide in police-community relations. The negative results of this program are attributed to the lack of oversight of the transferred equipment as well as a lack of training requirements for law enforcement agencies to ensure proper usage of the equipment. Interestingly, this research has not revealed any opposition to additional oversight and accountability of the 1033 Program and has not identified any scholarly sources that support that the program should be left in its current state of operation. Yet for the 1033 Program to operate successfully, the DoD should refocus its efforts toward supporting counternarcotic and counterterrorism efforts. Even though major terrorist events do not occur often in the United States, there is still a real threat that cannot be ignored. It is important to question the blurring of

roles between law enforcement and the military especially if the outcome directly affects the civilian population that is not involved in crime or disproportionately affects the minority population in comparison to the rest of society. As with any program, there are known positive and negative factors that are usually accounted for during a program's inception. Conversely, regardless of how well-intentioned a planned program may be, there will always be the threat of unintentional side effects that many not be known for years or even generations. However, shutting down the 1033 Program or barring access by federal, state, and local law enforcement agencies could present unknown consequences in the future that may not be recognized until well after a serious incident involving injury or death has occurred, whether criminal or terroristic in origin. Fortunately this debate regarding the 1033 Program has not faded yet as law enforcement agencies, communities, as well as the federal government are still actively pursuing remedies and methods to enhance police-community relations and to accomplish this goal all facets of society, including citizens, law enforcement, as well as local, state, and federal governments, must participate together in this debate for a positive outcome to emerge.

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- Lomax, M. (2014). Testimony 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. U.S. House of Representatives Committee on Armed Services, Subcommittee on Oversight and Investigation. Retrieved from <http://docs.house.gov/meetings/AS/AS06/20141113/102730/HHRG-113-AS06-Wstate-LomaxM-20141113.pdf>
- McCaskill, C. (2014). Testimony on oversight of federal programs for equipping state and local law enforcement agencies. Senate committee of Homeland Security and Governmental Affairs. Retrieved from <http://www.hsgac.senate.gov/download/?id=78cfb0f3-d7c9-42ad-b2bf-ab12469ad879>

- Meeks, D. (2005). Police militarization in urban areas: The obscure war against the underclass. *The Black Scholar*, 35(4), 33-41. Retrieved from <http://search.proquest.com/docview/229819374?accountid=8289>
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- U.S. Senate committee on Homeland Security and Governmental Affairs. (2014). *Oversight of federal programs for equipping state and local law enforcement*. [Flash video]. Available from <http://www.hsgac.senate.gov>

### Annotated Bibliography

American Civil Liberties Union. (2014). *War comes home: The excessive militarization of American policing*. Retrieved from <https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf>

This report is written and published by the American Civil Liberties Union (ACLU). The ACLU is an organization that focuses on preserving individual civil liberties and rights for all persons in the United States. This report is not peer reviewed and was not published in a scholarly journal, however, it provides current information on the topic of police militarization and issues regarding the type of equipment that is used by Special Weapons and Tactics (SWAT) teams. Although the ACLU does not entirely denounce the use of SWAT teams or equipment necessary for certain situations, there is a heavy emphasis on oversight and the drastic reduction on using SWAT teams. This report also focuses on “mission creep” of militarization in policing and the Department of Defense’s (DoD) 1033 program which is believed to provide overwhelming incentives for police to create SWAT teams.

Brinkerhoff, J. R. (2002). Domestic operational law: The Posse Comitatus Act and Homeland Security. *Journal of Homeland Security*. Retrieved from [http://usacac.army.mil/cac2/call/docs/10-16/ch\\_12.asp](http://usacac.army.mil/cac2/call/docs/10-16/ch_12.asp)

The author is a retired Army Colonel. Brinkerhoff has an extensive history with national preparedness program and has worked with the Civil Defense Program, the National Mobilization Preparedness Program, the Continuity of Government Program, and the National Defense Stockpile Program. This article was originally published in the *Journal of Homeland Security* in February of 2002, however, the original article is not accessible and was obtained through a secondary website source. The article specifically covers the Posse Comitatus Act and

homeland security and suggests that the act is often misinterpreted. The viewpoint expressed is that the Posse Comitatus Act was not written to prevent any military branch from providing support to police. Further, the article suggests that the Posse Comitatus Act allows military services to support police when ordered to do so by the President or through the authorization of Congress. It is suggested that the Posse Comitatus Act should be updated to address the current issues facing the United States such as terrorism and in a manner that does not allow any misinterpretation. This article is valuable for the topic of police militarization and the 1033 Program because it provides a viewpoint that the military can support law enforcement efforts through the use of the 1033 Program because it has been authorized through Congress. This article also provides alternate interpretations of the Posse Comitatus Act.

Bueermann, J. (2014). 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.” Retrieved from <http://docs.house.gov/meetings/AS/AS06/20141113/102730/HHRG-113-AS06-Wstate-BueermannJ-20141113.pdf>

Bueermann is the president of the Police Foundation, and a former police chief and officer. This testimony was given at a hearing in front of the Committee on Armed Services, the Subcommittee on Oversight and Investigations, and the U.S. House of Representatives regarding the purpose of the 1033 program. This testimony provides insight into what is currently taking place to address issues with police militarization and the 1033 program. In his testimony, he covers many potentially dangerous law enforcement situations that have resulted in positive outcomes because of the equipment provided by the 1033 program. His testimony also recognizes that more oversight and transparency by both the federal government and law enforcement agencies is necessary to promote police-community cooperation. This testimony

provides a balance response by recognizing both positive and negative aspects of the 1033 Program while also providing methods for improvement.

Campbell, D. J., & Campbell, K. M. (2009). Soldiers as police officers/police officers as soldiers: Role evolution and revolution in the United States. *Armed Forces & Society*, 36, 327-350 doi: 10.1177/0095327X09335945

D. J. Campbell has a doctorate industrial-organizational psychology from Purdue University and is a professor at the United States Military Academy. K. M. Campbell has a PhD in Psychology from Purdue University United and teaches at the United States Military Academy as well. This article covers the convergence of roles between military and domestic law enforcement in the United States. This article also describes the expansion of police militarization and that this is caused by interrelated roles that are often believed to be unique to either the military or law enforcement. This article is related to the blurring of roles between law enforcement and military functions and provides insight into how the 1033 Program may exacerbate this problem.

Commission on Accreditation for Law Enforcement Agencies. (2010). *The commission*. Retrieved from <http://www.calea.org/content/commission>

This website represents the Commission on Accreditation for Law Enforcement Agencies (CALEA). CALEA was created in 1979 to provide law enforcement agencies with the opportunity to enhance internal standards while also seeking to improve external relations and confidence within communities by implementing accountability standards that reward professionalism. This source provides information regarding the scope of this program as well as the steps necessary for a law enforcement agency to become accredited through CALEA. CALEA also works jointly with other association such as the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, National Sheriffs'

Association, and the Police Executive Research Forum, with the common goal to establish professionalism and standards within law enforcement.

Defense Logistics Agency. (2015). *1033 program FAQs*. Retrieved from <http://www.dispositionservices.dla.mil/leso/Pages/1033ProgramFAQs.aspx#q1>

This website describes the operation of the Defense Logistics Agency (DLA) and is also part of the operation that makes up the 1033 Program. The DLA determines if the excess equipment from the Department of Defense will be utilized at a later time, transferred to another department, donated, or sold to the public. This source is useful to this research as it provides information regarding the process of the 1033 Program and all agencies involved such as the Department of Defense, Law Enforcement Support Office, and the state coordinators. This source also provides descriptions and statistics of some of the items transferred through the DLA into the 1033 Program.

Department of Justice (2015). *Investigation of the Ferguson police department*. Retrieved from [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report\\_1.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf)

The Department of Justice (DoJ) is part of the federal government that is tasked with, among other issues, ensuring that domestic law enforcement agencies operate in a fair and impartial manner to all persons in the United States. This report was conducted by the Civil Rights Division in response to allegations of misconduct in the Ferguson Police Department in Ferguson, Missouri. Although this report is not directly related to the 1033 Program, it provides information regarding the negative practices that law enforcement and the local government utilized that resulted in the erosion of police-community relations in Ferguson, Missouri. This report also provides suggestions to improve police-community relations such as community policing, focusing on improved police training, and implementing policies to prevent further erosion of police-community relations.

Doyle, C., & Elsea, J. (2012). *The Posse Comitatus Act and related matters: The use of the military to execute civilian law* (Congressional Research Service Report No. R42659). Retrieved from <http://www.fas.org/sgp/crs/natsec/R42659.pdf>

Coyle is a Senior Specialist in American public law and Elsea is a legislative attorney. Doyle and Elsea created this report for the Congressional Research Service. This report explains the Posse Comitatus Act of 1878 in detail as it provides an extensive background on how it applies to the military as well as civilian law enforcement efforts. This report will assist in gaining a better understanding of how provisions set by Congress allow for the existence of the DoD's 1033 program.

Else, D. (2014). *The "1033 Program," Department of Defense support to law enforcement* (Congressional Research Service Report No. R43701). Retrieved from: <http://fas.org/sgp/crs/natsec/R43701.pdf>

Else is a Specialist in National Defense. Else created this report for the Congressional Research Service. This report provides relevant information regarding the creation of the 1033 program and how it provides support for law enforcement. This report also explains the entire process of how the 1033 Program operates and identifies all entities involved. This report describes how the Posse Comitatus Act of 1878 specifically separates military action and civil law enforcement, yet give power to Congress in authorizing the DoD to assist in providing domestic law enforcement with direct or material support.

Estevez, A., & Harnitchek, M. D. (2014). Testimony on oversight of federal programs for equipping state and local law enforcement agencies. Senate Committee of Homeland Security and Governmental Affairs. Retrieved from <http://docs.house.gov/meetings/AS/AS06/20141113/102730/HHRG-113-AS06-Wstate-EstevezA-20141113.pdf>

This is a joint statement of Estevez, the Principal Deputy Under Secretary of Defense for Acquisition, Logistics and Technology, and Vice Admiral Mark Harnitchek, the Director of the Defense Logistics Agency (DLA). This statement provides information about how the Department of Defense (DoD) provides excess equipment to the DLA and that when the DLA no

longer has a need for the excess equipment, it is then offered to law enforcement agencies through the 1033 Program. This statement provides statistics on non-controlled property—property that does not have military attributes such as office supplies and first aid kits—and controlled property—equipment that is on the Department of State Munitions Control List or Department of Commerce Control List, such as military weapons or vehicles such as Mine-Resistant, Ambush-Protected vehicles (MRAPs). It is noted that DLA conducts a bi-annual review of the controlled property that is distributed through the 1033 Program and that in 2013, 21 states were actually suspended temporarily from the program because of issues with accountability of property. This source provides credible information is valuable for describing the process in which property is transferred through the many agencies and ends up in the hands of law enforcement.

Grasso, V. B. (2014). *Defense surplus equipment disposal, including law enforcement 1033 Program*. (Congressional Research Service Report No. 7-5700). Retrieved from <https://www.fas.org/sgp/crs/natsec/RS20549.pdf>

Grasso, is a specialist in defense acquisition which fits the theme of this report as it covers the 1033 Program. This report is published by the Congressional Research Service which is responsible for providing policy and legal analysis to the United States Congress. This report provides background information regarding the Defense Logistics Agency (DLA) and the Law enforcement Support Office (LESO) and how they operate in regards to the 1033 Program such as how LESO transfers the excess equipment from the Department of Defense (DoD) to federal and state law enforcement agencies. This report also contains statistical information regarding tactical and non-tactical equipment that was transferred through the 1033 Program. The DLA claims the all of the equipment transferred though the 1033 Program has commercial similarities or can also be requested through a grant. More specifically the report provides information on the

equipment that was transferred to Ferguson, MO and the St. Louis County law enforcement programs between July 2013 and September of 2014. This report is valuable in providing relevant information regarding the background, operation, and analysis of the 1033 Program.

Hall, A. R., & Coyne, C. J. (2013). The militarization of U.S. domestic policing. *The Independent Review*, 17(4), 485-504. Retrieved from <http://search.proquest.com/docview/1335091815?accountid=8289>

When this article was published, Hall was a Mercatus Graduate Fellow in the department of economics at George Mason University. Coyne is a Professor of Economics at George Mason University. In this article, the authors explore many explanations that have led up to an increase in police militarization such as the DoD's 1033 program, the events of 9/11, as well as the war on terror. This article argues that police militarization is likely to continue as there is no clear mechanism—other than public scrutiny—to reverse police militarization. This is an interesting concept as there is a renewed interest in the 1033 program as well as police militarization only a year after this article was published.

Hill, S., & Berger, R. (2009). A paramilitary policing juggernaut. *Social Justice*, 36(1), 25-40. Retrieved from <http://search.proquest.com/docview/231898161?accountid=8289>

Hill was an Associate Professor of international relations in the Department of Political Science at the University of Wisconsin-Eau Claire and his academic concentration focused on conflict resolution, paramilitary policing, and peacekeeping. Berger was a Professor of criminal justice in the Department of Political Science, University of Wisconsin-Eau Claire and his academic concentration focused on paramilitary policing, legal adaptation among refugees, and ex-offender reentry challenges. The authors of this article suggest that police militarization is a growing problem that has been around for decades and has only increased in its significance after the war on terrorism became a primary concern. The authors note that if police militarization is not addressed sooner than later it will become much more difficult to reverse. The authors also

provide preliminary steps to slow or reverse the militarization of police by strengthening the Posse Comitatus Act and increasing penalties for violations and possibly even stop the transfer of excess military equipment to law enforcement agencies.

James, N. & Else, D. (2014). *The "Militarization" of law enforcement and the Department of Defense's "1033 program"* (Report No. IN10138). Retrieved from <http://fas.org/sgp/crs/natsec/IN10138.pdf>

James is an Analyst in Crime Policy and Else is a Specialist in National Defense. This is a summary of a report by the Congressional Research Service that provides links to several articles and reports regarding police militarization and the 1033 program. Additionally, this report covers the development of Special Weapons and Tactics (SWAT) teams in the 1960s and the continued expansion of these teams that is associated with police militarization. This reports provides information regarding the American Civil Liberties Union's (ACLU) stance against the rise in utilizing SWAT teams as well as the expansion of police militarization. There is also information that potentially links the "war on drugs" and the "war on terror" with police militarization as the distinction between the role of the military and law enforcement continues to blur as many tactics and pieces of equipment that were created for military use are being incorporated into civilian law enforcement operations.

Justice Policy Institute. (2012). *Rethinking the Blues: How We Police in the U.S. and at What Cost*. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/rethinkingtheblues\\_final.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/rethinkingtheblues_final.pdf)

The Justice Policy Institute (JPI) is a nonprofit organization. Their mission is to reduce "the use of incarceration and the justice system and promoting policies that improve the well-being of all people and communities." This report describes the influence of police in the United States and suggests that more police officer do not necessarily result in safer communities. This reports

also suggests the increase in police officers has significantly damaged police-community relations and that smaller, more community based policing methods would be more effective.

Katel, P. (2014). Police tactics: Has U.S. law enforcement become militarized? *CQ Researcher*, 24, 1033-1060. Retrieved from <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre2014121200&action=print>

Katel is a journalist and a contributing researcher for the CQ Researcher and has also contributed to magazines such as Time and Newsweek. In his article written for the CQ Researcher, Katel covers many aspects and problems that potentially affect a positive police-community relationship. Katel covers racial issues involving police shootings and use of force as well as police militarization and the 1033 Program are believed to be contributing to a greater racial divide among police operations and the communities they serve. Although Katel does not provide a personal stance toward the cause and effect of police militarization, he is able to provide a very informative article that is presented in a manner that is fair to both law enforcement and those that express concern toward police misconduct and militarization. This source is valuable to the topic of police militarization and the 1033 program because it specifically addresses many issues that contribute to constantly eroding police-community relations.

Kohn, R. H. (2009). The danger of militarization in an endless "war" on terrorism. *The Journal of Military History*, 73(1), 177-208. Retrieved from <http://search.proquest.com/docview/195642353?accountid=8289>

When this article was published, Kohn was a Professor of History and Adjunct Professor of Peace, War, and Defense at the University of North Carolina at Chapel Hill. He covers how the American society has come to accept that a standing military force is necessary in providing safety against terrorism. Although the author does not specifically cover the 1033 program, he covers the blurring of the roles between the military and civilian law enforcement in providing

protection in the war on terror. This article is peer reviewed and was published in a scholarly journal. Although this article was published in 2009, the information is still relevant as the war on terror and the blurring of military and law enforcement tactics continues today. This article does not appear biased as it provides a unique perspective linking the war on terrorism and the continued acceptance the militarization of certain aspects of society in protecting against terrorism.

Kraska, P. B. (2007). Militarization and policing—Its relevance to 21st century police. *Policing*, 1, 1-13. doi:10.1093/police/pam065

Dr. Peter Kraska is a Professor with the School of Justice Studies at the University of Eastern Kentucky and has extensively written about the militarization of law enforcement well before the events in Ferguson, MO. This article was published in the scholarly journal titled *Policing*. Kraska recognizes the blurring of functions among civilian law enforcement efforts and military functions. He argues the idea that civilian law enforcement is utilizing military training and techniques while military forces are operating in Iraq and Afghanistan as more a police force for to assist in peace relations. He also recognizes that the war on terrorism has accelerated this blurring between the roles of civilian law enforcement and military functions. However, he notes that the military model does play an important role in the function of SWAT teams that cannot be ignored. This article assists in providing information regarding increased police militarization and the effects on police-community relations and provides a potential link between the 1033 Program and the increased blurring of military and civilian law enforcement efforts.

Kraska, P. B. (2014). Testimony on oversight of federal programs for equipping state and local law enforcement agencies. Senate committee of Homeland Security and Governmental Affairs. Retrieved from <http://www.hsgac.senate.gov/download/?id=7ee79f5f-3a55-4caf-8070-d4b693a05ae6>

Dr. Peter Kraska is a Professor with the School of Justice Studies at the University of Eastern Kentucky and has extensively written about the militarization of law enforcement. In his testimony, Kraska recognizes that there is an overwhelming trend in the United States regarding the militarization of police, however, he also recognizes that there are many law enforcement agencies that recognize this trend and intentionally work toward making sure the line between military and law enforcement roles do not blur. He notes an increase in the existence of SWAT teams around the country as well as an increased deployment of these teams between 1980 and 2000 and contributes this increase to the war on drugs from the 1980s leading into the 1990s as well as current counterterrorism goals after 9/11. He recognizes that the 1033 Program does contribute to police militarization, however, he adds that private, for-profit armament companies, in conjunction with local and federal tax dollars and asset forfeiture money, allow law enforcement to purchase a large amount of weaponry and military style equipment. This testimony is valuable for this capstone research project because Kraska has been studying police militarization well before recent events in Ferguson, MO. Kraska also provides many examples of how the militarization of police does not provide for positive police-community relationships and only continues to increase distrust of law enforcement.

Lomax, M. (2014). Testimony 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. U.S. House of Representatives Committee on Armed Services, Subcommittee on Oversight and Investigation. Retrieved from <http://docs.house.gov/meetings/AS/AS06/20141113/102730/HHRG-113-AS06-Wstate-LomaxM-20141113.pdf>

Lomax is the Executive Director of the National Tactical Officers Association (NTOA) and has an extensive background in law enforcement serving 27 years in the Pennsylvania State Police. The NTOA is a not-for-profit association that provides training and resources to local,

state and federal law enforcement agencies specifically for their special operations assignments. Lomax provides many justifications as to how the 1033 Program and the equipment obtained through the program has helped law enforcement in many different emergency situations from providing specialty vehicles for rescue operations during hurricanes to assisting in the capture of the suspect in the bombings during the Boston Marathon by having access to military grade thermal imaging. Although Lomax covers many exemplary examples as to when the 1033 Program has provided a positive impact both for law enforcement and the communities they serve he also recognizes that the 1033 Program could be improved in that the receiving agencies could be placed under stricter scrutiny, require agencies to provide an assessment as to why there is a need for certain pieces of equipment, and also require that agencies prove that policy and training standards exist prior to receiving the equipment. This sources provides a viewpoint that recognizes not only the benefits of obtaining certain pieces of equipment that are transferred to law enforcement through the 1033 Program but also recognizes that increased limitations should be enacted to provide better oversight of the program and to prevent misuse and improper deployment of the equipment.

McCaskill, C. (2014). Testimony on oversight of federal programs for equipping state and local law enforcement agencies. Senate Committee of Homeland Security and Governmental Affairs. Retrieved from <http://www.hsgac.senate.gov/download/?id=78cfb0f3-d7c9-42ad-b2bf-ab12469ad879>

McCaskill is a U.S. Senator representing the state of Missouri. Her written testimony was provided before the Senate Committee of Homeland Security and Governmental Affairs on the oversight of federal programs for equipping state and local law enforcement agencies. This testimony directly addresses the Department of Defense and the 1033 Program and how it related to law enforcement response in Ferguson, Missouri. This testimony also questions the use of

Mine-Resistant, Ambush-Protected vehicles (MRAPs) in domestic law enforcement duties as well as the effects of police militarization on police-community relations.

Meeks, D. (2005). Police militarization in urban areas: The obscure war against the underclass. *The Black Scholar*, 35(4), 33-41. Retrieved from <http://search.proquest.com/docview/229819374?accountid=8289>

Meeks is a Lecturer in the Criminal Justice Department at California State University, Long Beach. This article provides a unique view of how the militarization of law enforcement affects the underclass. Although this article was published well before the events in Ferguson, Missouri in 2014, information contained within the article provides some insight into how the militarization of law enforcement can possibly create economic and social consequences between law enforcement and the communities they serve in areas that are of lower socioeconomic status such as those that resemble Ferguson, Missouri.

Murray, J. (2005). Policing terrorism: A threat to community policing or just a shift in priorities? *Police Practice & Research*, 6(4), 347-361. doi:10.1080/15614260500293986

Murray is an Adjunct Professor in the School of Law at the University of Canberra, Australia. This article presents the idea that although law enforcement was founded upon paramilitary ideals, the events of 9/11 have exacerbated police militarization. The article suggest that even as law enforcement focus on community policing, there will remain a bias by law enforcement agencies toward the paramilitary style of policing and this again has been intensified because of the events of 9/11 and the war on terror. Although this article was published in 2005, it is still relevant to the topic of police militarization and provides further explanation on how the trend of police militarization continues to affect society.

Rezvani, A., Pupovac, J., Eads, D., & Fisher, T. (2014, September 2). MRAPs and bayonets: What we know about the Pentagon's 1033 program. Retrieved from <http://www.npr.org>

Rezvani, Pupovac, Eads, and Fisher are contributing authors for National Public Radio (NPR). This report provides a breakdown of statistical information regarding the 1033 program. This report provides lists of equipment and vehicles that has been disseminated to law enforcement through the 1033 program as well as the monetary value of the equipment. This report will provide supplemental information in establishing the extent in which the 1033 program enables law enforcement to acquire military equipment and vehicles. There does not appear to be any bias in this report so far, although, as this report is not complete, there is no definitive way to ensure that the final report will or will not have bias.

Shelton, H. O. (2014). Testimony on oversight of federal programs for equipping state and local law enforcement agencies. Senate committee of Homeland Security and Governmental Affairs. Retrieved from <http://www.hsgac.senate.gov/download/?id=06e0d62e-500b-4b87-9f8c-a4c0bb2ea734>

Shelton is the director of the National Association for the Advancement of Colored People (NAACP) Washington Bureau and the senior vice president for policy and advocacy. The NAACP is a nationally known advocacy group for minorities. In Shelton's testimony to the Senate committee of Homeland Security and Governmental Affairs he advocates for accountability within both the DoD 1033 Program as well as within law enforcement agencies from federal, state, and local levels. Shelton notes that the NAACP recommends that law enforcement agencies should develop policies as well as training requirements for equipment that is transferred through the 1033 Program and also address training in the use of force and anti-racial profiling. The NAACP also recommends transparency in law enforcement agencies that receive equipment through the 1033 Program and suggests that any agency that accepts equipment should be required to notify the public of the requisition and the intended use of the equipment. The NAACP suggests an increase in community policing and straying away from initiatives that are labeled as wars such as the war on drugs or the war on crime. This testimony

is valuable to the topic of police militarization and the 1033 Program as it provides some reasonable recommendations in preventing the misuse of equipment acquired through the 1033 Program and advocates for accountability, training and accountability, as well as pushing for community policing which is geared toward building stronger police-community relations.

Stockton, P. (2011). Testimony before the 112<sup>th</sup> Congress, U.S. House of Representatives Committee on Homeland Security, Subcommittee on Border and Maritime Security. Retrieved from [http://policy.defense.gov/portals/11/Documents/hdasa/ASD%28HDASA%29\\_HHSC-BMSS\\_111511.pdf](http://policy.defense.gov/portals/11/Documents/hdasa/ASD%28HDASA%29_HHSC-BMSS_111511.pdf)

Paul Stockton is the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs. In his testimony Stockton addresses the importance of having a working relationship at all levels of law enforcement and government agencies as well as with citizens and their communities to aid in protecting the United States from foreign and domestic threats. Stockton discusses the usefulness of the Department of Defense and the Domestic Preparedness Support Initiative which focuses on acquisition programs; excess property programs; equipment loan-lease programs; expertise sharing; and the usefulness of having dual-use technologies for law enforcement and the military. This testimony focuses solely on how programs such as the 1033 Program aid in domestic preparedness and providing methods to counter foreign and domestic threats. This testimony was given well before the current concern over police militarization and the potential consequences of the 1033 Program and is valuable for this capstone research as it shows the intended purpose of how these programs were to benefit homeland security.

U.S. Senate committee on Homeland Security and Governmental Affairs. (2014). *Oversight of federal programs for equipping state and local law enforcement*. [Flash video]. Available from <http://www.hsgac.senate.gov>

This video is of the hearing before the Senate Committee of Homeland Security and Governmental Affairs on the oversight of federal programs for equipping state and local law enforcement agencies. In this video, several Senators, scholars, and witnesses provided testimony regarding the 1033 Program, police-community relations, and police militarization. This video also includes a question and answer portion between Senators and witnesses seeking information about the operation of the 1033 Program. This video is useful in that witnesses describe the 1033 Program as well as possible methods that may be implemented in the future to improve accountability at all levels of the program.