Written Statement of the American Civil Liberties Union Before the U.S. Senate Committee on Homeland Security & Governmental Affairs

Hearing on

"Oversight of Federal Programs for Equipping State and Local Law Enforcement"

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Submitted by the
ACLU Washington Legislative Office

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The ACLU report, *War Comes Home: The Excessive Militarization of American Policing*, is available here: https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf.

The American Civil Liberties Union (ACLU) commends the U.S. Senate Committee on Homeland Security & Governmental Affairs for holding this hearing on "Oversight of Federal Programs for Equipping State and Local Law Enforcement." For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, DC, for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

Consistent with this mission, the ACLU is pleased to have this opportunity to submit testimony on the subject of federal programs that provide state and local law enforcement with military weapons and equipment. We have particular concerns with federal programs, including the Department of Defense 1033 Program, the Department of Justice Edward Byrne Memorial Justice Assistance Grant Program, and the Department of Homeland Security Grant Program, that have resulted in the militarization of American policing. Our concerns are shared in our recent report, *War Comes Home: The Excessive Militarization of American Policing*,[1] which is submitted with this statement. The report contains recommendations for the Congress, which we continue to refine as we learn more about these federal programs and the military tactics and equipment recently used in Ferguson, Missouri.

Militarized Policing in Ferguson, Missouri

As the nation watched Ferguson, Missouri, in the aftermath of the death of Michael Brown, it saw a highly and dangerously militarized response by law enforcement. Media reports indicate that the Ferguson Police Department responded to protests and demonstrations with "armored vehicles, noise-based crowd-control devices, shotguns, M4 rifles like those used by forces in Iraq and Afghanistan, rubber-coated pellets and tear gas."[2] Protestors were denied the right to assemble and a curfew was instituted. Almost a dozen reporters were arrested while exercising their First Amendment rights and other journalists reported being harassed and physically removed by police.[3]

Veterans from the Iraq and Afghanistan wars expressed horror and shock that they, while on active duty overseas, were less heavily-armed and combative then the local police in Ferguson.[4] Domestic and international media equated the images from Ferguson to familiar ones from combat zones in Iraq and Gaza. Law enforcement's response in Ferguson gave pause to many, and brought the issue of police militarization to national attention, especially in Washington, where President Obama said "[t]here is a big difference between our military and our local law enforcement, and we don't want those lines blurred."[5]

We appreciate the Congressional concern over the militarized response in Ferguson. Senator Claire McCaskill called for immediate de-militarization of the situation in Ferguson.[6] Senator Rand Paul described the need to differentiate a "police response and a military response."[7] Numerous House Members from across the country and from both parties also expressed dismay at the scenes from the St. Louis suburb. Representative Emanuel Cleaver, representing Kansas City, Missouri, commented that recent events in the small town reminded him more of "Fallujah than Ferguson."[8] In Southern California, Representative Duncan Hunter, a military veteran and member of the House Armed Services Committee said, "[t]he idea that state and local police departments need tactical vehicles and MRAPs with gun

turrets is excessive. Certain resources are designed and manufactured for a military mission—and it should stay that way."[9]

Representatives Hank Johnson and Raúl Labrador have announced plans to introduce legislation which would respond directly to concerns of militarized policing like those in Ferguson. The legislation will address the Department of Defense 1033 Program that provides surplus military-grade property to state and local law enforcement agencies at no charge, which cities like Ferguson are using.[10] In the past two years, the 1033 Program has provided St. Louis County law enforcement agencies, including the Ferguson Police Department, with military-grade vehicles, military rifles, night vision equipment, an explosive ordinance robot, and more.[11]

Militarized Policing and the War on Drugs

Militarized policing is not limited to situations like those in Ferguson or emergency situations—like riots, barricade and hostage scenarios, and active shooter or sniper situations—that Special Weapons And Tactics (SWAT) were originally created for in the late 1960s.[12] Rather, SWAT teams are now overwhelmingly used to serve search warrants in drug investigations, with the number of these teams having grown substantially over the past few decades. Dr. Peter Kraska has estimated that the number of SWAT teams in small towns grew from 20% in the 1980s to 80% in the mid-2000s, and that as of the late 1990s, almost 90% of larger cities had them. The number of SWAT raids per year grew from 3,000 in the 1980s to 45,000 in the mid-2000s.[13]

Our report, *War Comes Home: The Excessive Militarization of American Policing*, found that 79% of the incidents reviewed involved the use of a SWAT team to search a person's home, and more than 60% of the cases involved searches for drugs. We also found that more often in drug investigations, violent tactics and equipment were used. The use of a SWAT team to execute a search warrant essentially amounts to the use of paramilitary tactics to conduct domestic criminal investigations in searches of people's homes. This sentiment is shared by Dr. Kraska, who has concluded that "[SWAT teams have] changed from being a periphery and strictly reactive component of police departments to a proactive force actively engaged in fighting the drug war."[14]

The ACLU report highlighted the story of Jose Guerena, a 26-year-old Iraq war veteran, who was shot 22 times and killed by a SWAT team while they were raiding neighborhood homes in search of drugs. Mr. Guerena was sleeping after having worked the graveyard shift at the Asarco Mission mine in Tucson, Arizona. At 9:30 a.m., his wife woke him because she heard strange noises and saw the outline of a man standing outside the window. Mr. Guerena asked his wife to take their 4-year-old son and hide in a closet. With the safety on, Mr. Guerena took his rifle and went to investigate. A SWAT team fired 71 shots at Mr. Guerena, with 22 entering his body. He died on his kitchen floor without medical attention. No drugs were found in the Guerenas' home.[15]

Just as the War on Drugs has disproportionately impacted people and communities of color, we have found that the use of paramilitary weapons and tactics also primarily impacts people of color. Of the people impacted by SWAT deployments for warrants, at least 54% were minorities. When data was examined by agency (and with local population taken into consideration), racial disparities in SWAT deployments were extreme. In every agency, African Americans were disproportionately more likely to be impacted by a SWAT raid than whites, sometimes substantially so. For example, in Allentown, Pennsylvania, African Americans were nearly 24 times more likely to be impacted by a SWAT raid than whites were, and in Huntington, West Virginia, African Americans were 37 times more likely. Further, in

Ogden, Utah, African Americans were 40 times more likely to be impacted by a SWAT raid than whites were.[16]

The ACLU report featured the story of Tarika Wilson, a 26-year-old African American mother who was shot and killed by SWAT officers while she was holding her infant son. Ms. Wilson was not the suspect. The SWAT team had been looking for Ms. Wilson's boyfriend on suspicion of drug dealing when they raided Ms. Wilson's rented house on the Southside of Lima, Ohio, the only city with a significant African- American population in a region of farmland.[17]

Military Equipment Used by State and Local Law Enforcement

The military-style equipment, weapons, and tactics being used to conduct ordinary law enforcement activities best demonstrate militarized policing in the United States. We should be concerned that the equipment, weapons, and tactics that could be acquired and used include:

- Armored Personnel Carriers (APCs), Mine Resistant Ambush Protected vehicles (MRAPs), and other military vehicles that were created to transport infantry and provide protection from shrapnel and small arms fire on the battlefield; it is estimated that 500 law enforcement agencies have received MRAPs through the Department of Defense's 1033 Program;[18]

- Automatic weapons that are .50 caliber or greater and ammunition; through 1033, police have received magazines that carry 100 rounds of M-16 ammunition, which allow officers to fire continuously three times longer than usual;[19]

- Drones that are armored, weaponized, or both, and have been historically used to locate and kill enemy fighters in conflicts abroad;[20]

- Aircraft that are combat configured; since 2006, more than 500 military aircraft have been distributed through 1033;[21]

- Flash-bang grenades, sometimes referred to generically as a "distraction device," an explosive device that is used to distract the occupants of a building while a SWAT team is attempting to secure the scene;[22]

- Silencers, which soldiers use during raids and sniper attacks to muffle gunfire; police in 38 states have received silencers through 1033;[23]

- Long Range Acoustic Devises (LRADs), which were used in Ferguson to respond to protests in the aftermath of the Michael Brown shooting, and may cause permanent hearing loss;[24]

- Battering rams, "a large and heavy piece of wood or other material that is used to hit and break through walls and doors,"[25] which is nearly always carried on deployments, and is the primary tool used to breach doors and windows;[26]

- Battle Dress Uniforms (BDUs), fatigues that were designed for use by the U.S. Army throughout the 1980s and 1990s, that are typically worn with combat helmets when SWAT teams deploy;

the ACLU documented a total of 15,054 items of battle uniforms or personal protective equipment received by 63 responding agencies during the years 2011-2012;[27] and

- Training received by tactical teams, which often instructs law enforcement on how to develop a "warrior" mentality.[28]

Federal Programs that Contribute to Militarized Policing

The militarization of American policing has occurred as a result of federal programs that use equipment transfers and funding to encourage aggressive enforcement of the War on Drugs by state and local police agencies.

Department of Defense 1033 Program

The 1033 Program, launched in the late 1980s during the height of the so-called War on Drugs, authorizes the Department of Defense to transfer military equipment to local law enforcement agencies.[29] This program, enacted as part of the 1989 National Defense Authorization Act, initially authorized the transfer of equipment that was "suitable for use by such agencies in counterdrug activities."[30] In 1996, Congress made the program permanent and expanded the program's scope to require that preference be given to transfers made for the purpose of "counterdrug and counterterrorism activities."[31] There are few limitations or requirements imposed on agencies that participate in the 1033 Program.[32] In addition, equipment transferred under the 1033 Program is free to receiving agencies and, significantly, 36% of the property recently transferred was brand new.[33]

The Department of Defense operates the 1033 Program through the Defense Logistics Agency's (DLA) Law Enforcement Support Office (LESO), whose motto is "from warfighter to crimefighter." According to LESO, the program has transferred $4.3 billion worth of equipment through the 1033 Program.[34] Today, the 1033 Program includes more than 17,000 federal and state law enforcement agencies from all U.S. states and territories. The amount of military equipment being used by local and state police agencies has increased dramatically—the value of equipment transferred though the program went from $1 million in 1990 to $324 million in 1995 and to nearly $450 million in 2013.[35]

Department of Homeland Security (DHS) Grant Program

The main source of DHS funding to state and local law enforcement is the Homeland Security Grant Program (HSGP) and its two main components, the State Homeland Security Program (SHSP) and the Urban Areas Security Initiative (UASI).[36] Both grant programs require recipients to dedicate at least 25% of grant funds to "terrorism prevention-related law enforcement activities," though that phrase does not appear to be clearly defined.[37] The stated justification for DHS grants to state and local law enforcement is to support efforts to protect against terrorism, but even DHS acknowledges that it has a larger mission, which includes ordinary law enforcement activities. In 2010, DHS announced a new "anticrime campaign," which appears to have a minimal nexus to terrorism prevention,[38] but allows police departments to stockpile specialized equipment in the name of anti-terror readiness.

Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) Program

DOJ plays an important role in the militarization of the police through programs such as the Byrne JAG Program. Established in 1988, the program, originally called the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, provides states and local units of government with funding to improve the functioning of their criminal justice system and to enforce drug laws. JAG funding can be used for a number of purposes, including indigent defense and drug treatment. However, JAG grantees spend much more of their funding on law enforcement than on other program areas.

Between April 2012 and March 2013, JAG grantees spent 64% of their JAG funding on law enforcement. In contrast, grantees spent 9% on courts, including both prosecution and indigent defense, and a mere 5% on drug treatment and 6% on crime prevention and education.[39] Grantees use a portion of JAG funds allocated to law enforcement to purchase numerous types of weapons. In 2012-2013, state and local agencies used JAG funds to purchase hundreds of lethal and less-lethal weapons, tactical vests, and body armor.[40]

It is equally clear that the DOJ's Byrne JAG funding is being used to conduct unnecessarily aggressive activities in drug cases. Approximately 21% of all law enforcement JAG funds go to task forces, the majority of which are drug task forces, which routinely employ paramilitary tactics in drug investigations.[41] Byrne JAG drug task forces have been widely criticized for incentivizing unnecessarily aggressive, often militarized, tactics—particularly in communities of color.[42] As of 2011, 585 multi-jurisdictional task forces were funded through the JAG program.[43]

Lack of Federal Oversight

The militarization of policing in the United States has occurred with almost no public oversight. The federal agencies implementing programs that provide state and local law enforcement with military weapons and equipment, and the Congressional committees charged with oversight of the agencies, have offered limited accounting of these programs. The lack of federal oversight is a reflection of only sporadic SWAT data collection and reporting at the state and local levels. Additionally, there is no federal agency mandated to collect information related to local law enforcement use of SWAT. The Bureau of Justice Statistics (BJS), an ideal outlet for such data collection, does not collect information pertaining to incidents of SWAT deployment, uses of military weapons or tactics in connection with such deployments, or the underlying purposes of such deployments.[44]

Some oversight of the 1033 Program exists, with the Department of Defense Law Enforcement Support Office (LESO) state coordinators providing limited accountability. It appears these state coordinators rarely deny requests for equipment and cannot impose consequences for overly aggressive use of equipment. There appears to be no requirement that the Department of Defense make any certification to Congress regarding the performance or impact of the Program. In addition, agencies are permitted to transfer equipment obtained through the 1033 Program to other agencies. The ACLU uncovered numerous examples of state and local law enforcement agencies transferring equipment that they had obtained through the 1033 Program. There do not appear to be any limitations on or oversight of this practice.[45]

There is virtually no oversight over DHS support to state and local law enforcement through the Homeland Security Grant Program.[46] In 2013, DHS distributed nearly a billion dollars to state and local law enforcement agencies through HSGP to "enhance the ability of states, territories, and Federally recognized tribes to prevent, protect against, respond to, and recover from potential terrorist acts and other hazards."[47] As discussed above, however, this money was often spent on ordinary law enforcement activities. Senator Tom Coburn conducted an investigation into DHS funding to state and local law enforcement agencies in 2012. Senator Coburn concluded, that "taxpayer money spent on homeland security grant programs has not always been spent in ways obviously linked to terrorism or preparedness" and that "[DHS] has done very little oversight of the program, allowing cities to spend the money on almost anything they want, as long as it has broad ties to terror prevention."[48]

There is also minimal oversight over expenditures of DOJ funds. The Bureau of Justice Assistance (BJA) conducts some oversight over JAG funds, and has been strengthening its oversight in recent months, particularly with regard to potential use of JAG funds to subsidize racially biased marijuana possession arrests. However, there is virtually no oversight over weapons expenditures or use of paramilitary tactics in drug investigations.[49]

Recommendations for Congress

The federal government should take the lead by reining in programs that incentivize local police to engage in excessively militarized tactics, especially in drug cases. The federal government holds the purse strings, and restricting the flow of federal funds and military-grade equipment into states and localities, and/or conditioning funds on the appropriate use of such equipment and training, would significantly reduce the overuse of hyper-aggressive tactics and military-grade tools in local communities.

We make the following recommendations, which we will continue to refine as we learn more about these federal programs and in light of the military tactics and equipment recently used in Ferguson:

(1) Congress should condition state and local law enforcement agencies' receipt of federal funds on an agreement not to use the funds to purchase automatic or semi-automatic rifles, APCs, or other military weapons and equipment not suitable for law enforcement purposes. This condition should be applied to grants made through the Department of Homeland Security's Homeland Security Grant Program, the Department of Justice's Byrne JAG Program, and all other funding streams through which money is transferred from the federal government to state and law enforcement agencies.

(2) Congress should impose strict limits on the 1033 Program, including prohibiting the transfer of automatic or semi-automatic rifles, APCs, or other military weapons and equipment not suitable for law enforcement purposes; eliminating the preference for "counter-drug" operations; and requiring the Secretary of Defense to submit an annual written certification that each agency participating in the 1033 Program has provided documentation accounting for all equipment transferred to the agency. The Secretary of Defense should be required to prohibit additional transfers to any agency for which the Secretary cannot provide such certification.

(3) Congress should require state and local law enforcement to use Byrne JAG and Homeland Security Grant Program dollars to purchase body cameras for SWAT officers. Body cameras

would create a public record of SWAT deployments and serve as a check against unnecessarily aggressive tactics. Body cameras can be distinguished from other privacy-invading cameras in public places because of their potential to serve as a check on police overreach. Any policy requiring SWAT officers to wear body cameras should incorporate rigorous safeguards regarding data retention, use, access, and disclosure.[50] Body cameras cannot be the only check on militarized policing, and should be coupled with other reforms to federal programs.

(4) Because militarized policing is being used to carry out the War on Drugs, Congress should investigate whether the Byrne JAG program is skewing police priorities, in particular toward increasing low-level drug arrests. In addition, Congress should encourage DOJ, and specifically BJA, to issue clear guidance to State Administering Agencies (SAAs) and local law enforcement agencies affirming that JAG priorities include eliminating unnecessary incarceration while promoting public safety and reducing unwarranted racial disparities in arrest rates. Congress should also require BJA to mandate that grantees and sub-grantees (agencies that receive funding directly from BJA and agencies that receive funding through an SAA, respectively) include the following data in their quarterly and annual reports:

> (a) Demographic data, specifically, race, age, gender, and ethnicity for all arrests reported. Race data should include the following categories: white, Black or African American, American Indian and Alaska Native, Asian, and Native Hawaiian and other Pacific Islander. Ethnicity data should indicate whether or not the arrestee was Hispanic/Latino;
> (b) The address/location of all arrests reported;
> (c) The total number of individuals who reside in the area over which the sub-grantee exercises jurisdiction, as well as the racial demographics of this population; and
> (d) Offense category for drug arrests, specifically, to differentiate drug sale or trafficking arrests from drug possession arrests. Type of drug should also be reported (e.g., X cocaine sale arrests or X marijuana possession arrests).

(5) As militarized policing appears to be carried out in a racially biased way, Congress should pass the End Racial Profiling Act, which would require state or local governmental entities or state, local, or tribal law enforcement agencies that apply for grants under the Byrne JAG Program and the Cops on the Beat Program to certify that they maintain adequate policies and procedures for eliminating racial profiling and have eliminated any existing practices that permit or encourage racial profiling.

Conclusion

American policing has become excessively militarized through the use of weapons and tactics designed for the battlefield. Militarization unfairly impacts people of color and undermines individual liberties, and it has been allowed to happen in the absence of any meaningful public discussion or federal oversight. The use of paramilitary weapons and tactics to conduct ordinary law enforcement—especially to wage the failed War on Drugs and most aggressively in communities of color—has no place in contemporary society. It is not too late to change course. Through greater transparency, more oversight, policies that encourage restraint, and limitations on federal incentives, we can foster a policing culture that honors its mission to protect and serve, not to wage war.

[1] ACLU, "War Comes Home: The Excessive Militarization of American Policing," June 23, 2014, *available at* https://www.aclu.org/sites/default/files/assets/jus14-warcomeshome-report-web-rel1.pdf.
[2] David Nakamura & Niraj Chokshi, "Obama Orders Review of Military Equipment Supplied to Police," Wash. Post, Aug. 23, 2014, *available at* http://www.washingtonpost.com/politics/obama-orders-review-of-military-equipment-supplied-to-police/2014/08/23/6316b8aa-2b03-11e4-8593-da634b334390_story.html (last visited Sept. 3, 2014).
[3] Brian Stetler, "6 More Journalists Arrested in Ferguson Protests," CNN, Aug. 19, 2014, *available at* http://www.cnn.com/2014/08/19/us/ferguson-journalists-arrested/ (last visited Sept. 3, 2014).
[4] Matthew Farwell, "What Combat Veterans See In Ferguson, Missouri, Vanity Fair, Aug. 16, 2014, *available at* http://www.vanityfair.com/online/daily/2014/08/veterans-ferguson-matthew-farwell (last visited Sept. 3, 2014).
[5] Erin McPike & Jessica Ravitz, "Obama Orders Review of Military Equipment Sales to Police," CNN, *available at* http://www.cnn.com/2014/08/23/politics/military-equipment-police-review/ (last visited Sept. 3, 2014).
[6]Ed O'Keefe, "McCaskill to Chair Ferguson-Themed Hearing on Militarization of Police," Wash. Post, Aug. 28, 2014, *available at* http://www.washingtonpost.com/blogs/post-politics/wp/2014/08/28/mccaskill-to-chair-ferguson-themed-hearing-on-militarization-of-police/ (last visited Sept. 3, 2014).
[7] Rand Paul, "We Must Demilitarize the Police," Time, Aug. 14, 2014, *available at* http://time.com/3111474/rand-paul-ferguson-police/ (last visited Sept. 3, 2014).
[8] Johnathan Topaz, "Emanuel Cleaver: Ferguson Looks Like Fallujah," Politico, Aug. 19, 2014, *available at* http://www.politico.com/story/2014/08/emanuel-cleaver-ferguson-reaction-110139.html (last visited Sept. 3, 2014).
[9] Chris Jennewein, "Rep. Hunter Criticizes Police Use of Battlefield Equipment," Times of San Diego, Aug. 17, 2014, *available at* http://timesofsandiego.com/politics/2014/08/17/rep-hunter-criticizes-police-use/ (last visited Sept. 3, 2014).
[10] The ACLU supports this legislation that responds to serious concerns with the Department of Defense 1033 Program, but believes that other reforms are needed as indicated in the Recommendations section of this statement.
[11] Taylor Wofford, "How America's Police Became an Army," Newsweek, Aug. 13, 2014, *available at* http://www.newsweek.com/how-americas-police-became-army-1033-program-264537 (last visited Sept. 3, 2014).
[12] Daryl Gates, Chief: My Life in the LAPD (New York: Bantam, 1992), p. 131. For an excellent summary of the creation and evolution of SWAT, see Radley Balko, Rise of the Warrior Cop (New York: PublicAffairs, 2013).
[13]Peter Kraska, "Militarization and Policing—Its Relevance to 21st Century Police," Policing (2007) 1 (4) 1-13 (Jan. 1, 2007), p. 6.
[14] *Id.* at 7.
[15] *See supra*, note 1 at 17.
[16] *See supra*, note 1 at 36-37.
[17] See supra, note 1 at 5.
[18] *Id.*
[19] Matt Apuzzo, "War Gear Flows To Police Departments," N.Y. Times, June 8, 2014, *available at* http://www.nytimes.com/2014/06/09/us/war-gear-flows-to-police-departments.html?_r=01 (last visited Sept. 3, 2014).
[20] Marta H. Mossburg, "The Creeping Encroachment of Police-State Tactics, Baltimore Sun, Dec. 20, 2011, *available at* http://articles.baltimoresun.com/2011-12-20/news/bs-ed-mossburg-big-brother-20111220_1_state-police-drones-police-forces (last visited Sept. 3, 2014).
[21] *See supra*, note 19.
[22] There are other kinds of distraction devices such as "tactical balls," which wobble and spin when rolled or tossed into a room, but flashbang grenades seem to be the most well known. For the most part, the incident reports the ACLU studied tended to use either the words "flashbang" or "distraction device" to refer to these weapons.
[23] *See supra*, note 19.
[24] Lily Hay Newman, "This is the Sound Cannon Used Against Protestors in Ferguson," Slate, Aug. 14, 2014, *available at* *http://www.slate.com/blogs/future_tense/2014/08/14/lrad_long_range_acoustic_device_sound_cannons_were_used_for_crowd_control.html* (last visited Sept. 3, 2014).

[25] Merriam-Webster, http://www.merriam-webster.com/dictionary/battering%20ram (last visited Sept. 3, 2014).
[26] *See supra*, note 1 at 21.
[27] *See supra*, note 1 at 5.
[28] *See supra*, note 1 at 23.
[29] *See* 10 U.S.C. § 2576a.
[30] *See* National Law Enforcement and Corrections Technology Center, Federal Property and Equipment Manual: Federal Sources of Personal Property for Law Enforcement, 2 (Revised 2002), *available at* http://info.publicintelligence.net/FederalPropertyManual.pdf (last visited Sept. 3, 2014).
[31] *Id.* at 3.
[32] One limitation, which the ACLU supports, is a prohibition on the sale of equipment obtained through the 1033 Program.
[33] Defense Logistics Agency, "Fact Sheet: Responses on Excess Property Program for Representative Henry Johnson," sent in response to an inquiry from Representative Johnson requesting additional information on military-grade equipment to civilian police, Jan. 14, 2014.
[34] Defense Logistics Agency, Disposition Services, "Law Enforcement Support Office (LESO): Providing Support to America's Law Enforcement Community Since 1997," *available at* https://www.dispositionservices.dla.mil/rtd03/leso/, Jan. 23, 2014 (last visited March 17, 2014). An attempt to visit this webpage was made on September 3, 2014, but it is no longer available.
[35] *Id*.
[36] U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties, Civil Rights/Civil Liberties Impact Assessment: DHS Support to the National Network of Fusion Centers, 6 (March 1, 2013), *available at* https://www.dhs.gov/sites/default/files/publications/DHS%20Support%20to%20National%20Network_0.pdf (last visited Sept. 3, 2014).
[37] U.S. Department of Homeland Security, FY 2013 Homeland Security Grant Program (FY 2013 HSGP Fact Sheet), 1 (2013), *available at* http://www.fema.gov/media-library-data/8d0439562c89644a68954505a49cbc77/FY_2013_Homeland+Security+Grant+Program_Fact_Sheet_+Final.pdf (last visited Sept. 3, 2014).
[38] U.S. Department of Homeland Security, "Next Steps: Supporting Community-Based Efforts to Reduce Violent Crime," U.S. Department of Homeland Security, *available at* http://www.dhs.gov/xlibrary/assets/fact_sheet_reduce_violent_crime_080310.pdf (last visited Sept. 3, 2014). This problem is not theoretical; DHS provides numerous sources of support to state and local law enforcement agencies for reasons that are entirely unrelated to terrorism prevention. Indeed, DHS operates a nationwide law enforcement network called the Homeland Security Information Network, which was created to assist state and local enforcement agencies conduct their ordinary work related to investigating allegations of gun, drug, and gang offenses; the notion that DHS support to local law enforcement is purely for the purpose of terrorism prevention is a myth. *See, e.g.,* "Homeland Security Information Network—Law Enforcement Mission," Homeland Security, *available at* http://www.dhs.gov/homeland-security-information-network-law-enforcement-mission (last visited Sept. 3, 2014).
[39] Bureau of Justice Assistance, "Grant Activity Report: Justice Assistance Grant (JAG) Program, April 2012-March 2013," p. 2, *available at* https://www.bja.gov/Publications/JAG_LE_Grant_Activity_03-13.pdf (last visited Sept. 3, 2014).
[40] *Id.* at 4.
[41] *Id.* at 6.
[42] *See, e.g.,* Michelle Alexander, "Obama's Drug War," The Nation, Dec. 9, 2010, *available at* http://www.thenation.com/article/156997/obamas-drug-war (last visited Sept. 3, 2014) ("The Byrne grant program, originally devised by the Reagan administration to encourage state and local law enforcement agencies to join the drug war, has poured millions of dollars into drug task forces around the country that are notorious for racial profiling, including highway drug interdiction programs and neighborhood 'stop and frisk' programs. These programs have successfully ushered millions of poor folks of color into a permanent undercaste—largely for engaging in the same types of minor drug crimes that go ignored in middle-class white communities and on college campuses.")

[43] National Criminal Justice Association, "SAA Taskforce Performance Measures: A Look at Metrics Used to Evaluate MJTFs," National Criminal Justice Association, *available at* http://www.ncja.org/sites/default/files/documents/Taskforce-Performance-Measures.pdf (last visited Sept. 3, 2014).

[44] The other federal agency responsible for some criminal justice-related data collection is the Federal Bureau of Investigation (FBI). The FBI, through the Uniform Crime Reports, collects and publishes information pertaining to crime rates, law enforcement officers killed or assaulted, and hate crime statistics. The ACLU does not recommend designating the FBI as the federal agency with primary responsibility for collecting, maintaining, and evaluating information pertaining to the militarization of policing because BJS is the more appropriate federal agency for taking on this responsibility.

[45] *See supra*, note 1 at 30.

[46] As part of an ongoing effort to document the costs of securing the homeland, the Center for Investigative Reporting did a comprehensive investigation into states' receipt and distribution of DHS and other federal agency grant dollars in 2011 as part of its "America's War Within" series. To the best of the ACLU's knowledge, this is the most comprehensive collection of data (from 2009, however) on federal handouts to state and local law enforcement agencies. The Center for Investigative Journalism, "Price of Peril: Homeland Security Spending by State," http://cironline.org/sites/default/files/legacy/files/homelandsecurity/priceofperil.html (last visited March 21, 2014).

[47] *Supra* note 37 at 1.

[48] Senator Tom Coburn, Safety at Any Price: Assessing the Impact of Homeland Security Spending in U.S. Cities, 4, 5 (Dec. 2012), *available at* http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=b86fdaeb-86ff-4d19-a112-415ec85aa9b6 (last visited Sept. 3, 2014).

[49] *See supra* note 1 at 30.

[50] Specific recommendations for how to implement such safeguards are set forth in an article by ACLU Senior Policy Analyst Jay Stanley, "Police Body-Mounted Cameras: With Right Policies in Place, a Win for All" (Oct. 2013), *available at* https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf (last visited April 4, 2014).