



POLICE

THE BLOATED PENTAGON BUDGET AND THE MILITARIZATION OF LAW ENFORCEMENT

A REPORT BY THE CONGRESSIONAL PROGRESSIVE CAUCUS CENTER

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INTRODUCTION

The militarization of policing is defined as using military equipment, weapons, and tactics in policing—that is, weapons and tactics of war being used against civilians. Examples include using military-grade assault rifles and submachine guns, personnel carriers, and even tanks by municipal police forces. But that only tells part of the story—our bloated military budget results in the acquisition of unnecessary weapons and equipment. The subsequent transfers of surplus equipment often lead to violent police responses in communities of color and on Tribal lands. Other policies, such as post-9/11 surveillance programs, result in the over-surveillance of Black, Indigenous, and People of Color (BIPOC) individuals and neighborhoods, and sovereign Indigenous lands.

A comprehensive analysis of many of these programs is challenging for several reasons. At the federal level, it is difficult to track and reconcile all military-grade equipment transfers to local police departments. At the state and local levels, not all municipalities are forthcoming with this data or are willing to report it promptly.

In this report, we present a clear overview of the federal programs and policies contributing to militarized law enforcement. In doing so, we draw a clear line between the budgets that support U.S. foreign policy and national security priorities and the local communities directly affected by these allocations.

This report is an overview of a series of four explainers exploring the link between the ballooning military budget and adverse outcomes for local communities. These explainers will examine critical issues surrounding Tribal policing, border communities and law enforcement, the 1033 and 1122 military equipment transfer programs, and the surveillance of Muslim communities.

HISTORY, LAWS, AND PRACTICES THAT CONTRIBUTE TO DOMESTIC MILITARIZATION



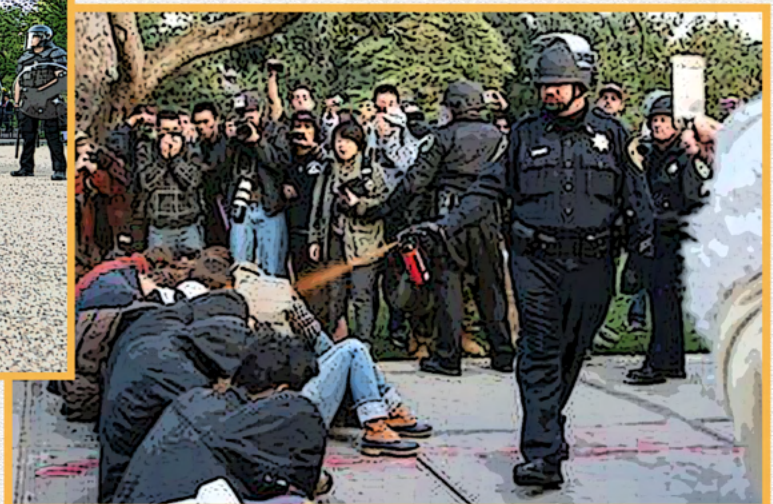
The Omnibus Crime Control and Safe Streets Act of 1968 created the Law Enforcement Assistance Administration (LEAA), which established a grant-making agency within the Department of Justice (DOJ). These grants allowed state and local agencies to **develop and purchase** military-grade equipment to suppress riots. The LEAA program facilitated the acquisition of bulletproof vests, helicopters, tanks, rifles, gas masks, and other military-grade equipment by police departments. The military previously used much of this equipment during conflicts in **Latin America and the Vietnam War**. The program was eventually eliminated in 1982 over criticism concerning costs and the lack of effectiveness in reducing crime. However, it cemented the federal government's role in funding the acquisition of militarized equipment by state and local law enforcement and provided a blueprint for developing paramilitary forces to counteract civil demonstrations.

Accordingly, recent mass protests like Occupy Wall Street and protests against police brutality have been met with militarized responses from police. In the summer of 2020 following the police killing of George Floyd, millions of people joined protests that took place across the nation. During one protest in Washington D.C., U.S. Park Police in riot gear cleared protesters from Lafayette Square, employing tear gas and rubber bullets. While the motive behind this action **remains debated**, the unprovoked use of tear gas by police on peaceful demonstrators raised several concerns. Tear gas—a chemical weapon that can cause long-term health consequences and injuries—was banned from use in international warfare during the **1993 U.N. Chemical Weapons Convention**, yet kept legal for domestic use by U.S. law enforcement.

In an extraordinary step to curb continued protests, President Trump called on active-duty military to be deployed to Washington and threatened to invoke **The Insurrection Act**, a law that allows the President to employ armed forces to respond to an insurrection or natural disaster. Although another law—**The Posse Comitatus Act**—prohibits the mobilization of federal military personnel for routine law enforcement operations, the Insurrection Act has been invoked by Presidents in the past to abate civil unrest. Most recently, it was used in 1992 in the aftermath of the police brutality case involving Rodney King. The law represents a loophole that has allowed for the expansion of federal military forces to resolve domestic civil unrest.



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Excessive militarism, both abroad and domestically, has been encouraged by the arms industry and defense lobby. These organizations relentlessly lobby for increased military spending and the purchase of more weapons they manufacture, not to meet demand, but to increase their profits. Inevitably, these weapons kill innocent people in the U.S. and worldwide. **Almost half the Pentagon's base budget goes to defense corporations, with one-third going to the top five defense contractors (Lockheed Martin, Boeing, Raytheon, General Dynamics, and Northrop Grumman).** Lockheed Martin receives an estimated **90 percent** of its revenue from the federal government. In 2020, **the U.S. sent more money to Lockheed Martin than Russia spent on its entire military.**

The revolving door between the Department of Defense (DOD) and defense corporations exacerbates this dynamic. It is not uncommon for former defense lobbyists or individuals with ties to the defense industry to hold seats of power at the Pentagon and ultimately be involved in decisions on carrying out military activities in the U.S. and abroad. Decisions to pursue U.S. military engagement eventually lead to a profit for the companies that formerly employed some DOD officials. Before his appointment, the current Secretary of Defense, Lloyd Austin, sat on the board of directors at Raytheon, which manufactured **air-to-ground** missiles for Saudi Arabia, used to wage war and kill innocent civilians in Yemen. Former President Trump's last Defense Secretary, Mark Esper, was a senior lobbyist for Raytheon.



FEDERAL PROGRAMS THAT DIRECTLY MILITARIZE LAW ENFORCEMENT AGENCIES



1033 Program

The 1033 Program allows the Department of Defense to transfer excess property from military units to federal, state, local, and Tribal law enforcement agencies in the United States. The property includes military-specific equipment, arms, munitions, and vehicles but most often includes generic office items, such as furniture, medical supplies, and computers. Law enforcement agencies can acquire these items **for free**, paying only the transportation costs to their local headquarters. The program intended to reduce government waste by supporting the reuse of these items. **Instead, local law enforcement agencies' acquisition of military-grade equipment has resulted in an increase in violent behavior by officers—particularly in communities with a high proportion of Black residents.**

Though it was established by the Law Enforcement Support Program under the **1990 National Defense Authorization Act (NDAA)**, the 1033 Program **saw limited use** until 2006, when the U.S. military used it to offload equipment no longer needed in Iraq and Afghanistan. The 1033 Program expanded explosively thereafter: **in 2014, the DOD transferred more than \$900 million worth of equipment to local law enforcement.** That same year, the 1033 Program **came under scrutiny** when police refurbished military equipment in response to protests in Ferguson, Missouri—protests that explicitly decried the militarization of police departments.

In January 2015, the Obama administration **limited** the types of equipment that could be transferred through the 1033 Program. In August 2017, the Trump administration **rescinded** these restrictions. After nationwide protests incited by the killing of George Floyd in 2020, however, Congress **reinstated many equipment restrictions** over President Trump's veto. Unfortunately, **comparative analysis** suggests that none of these "reforms"—by President Obama, President Trump, or Congress—had a material impact on 1033 acquisitions. The impact of the reforms were likely muted because the restrictions were too narrow and poorly enforced to affect acquisition decisions.

To participate in the 1033 Program, **applicant agencies must submit paperwork** verifying that they (1) enforce laws, (2) are employees (rather than volunteers), and (3) have the power to arrest. State and local law enforcement agencies must additionally secure approval from the State Coordinator of the 1033 Program, typically appointed by the state **governor**. However, a **2017 Government Accountability Office (GAO) report found that the process has almost no internal controls: not only was a fake agency able to secure \$1.2 million worth of controlled items¹, it received more items than it requested². Furthermore, the 1033 Program does not require a standardization of recordkeeping, inventory management, or authorized use, meaning it suffers from a severe **lack of transparency**.**

Proponents of 1033 have argued that the Program makes **officers safer and lowers crime rates, decreases local police budgets, lowers costs to taxpayers**, and allows police access to equipment that they may not otherwise be able to **afford**. However, more granular analysis belies these claims. For example, further studies have shown that there is **no impact of 1033 acquisitions** on officer safety or crime rates, and that local governments **do not reduce** law enforcement agency budget allocations when the agency receives equipment through the 1033 Program.

The tragic Uvalde, Texas, school shooting is one example of misplaced faith in the **militarized policing** that has grown out of the 1033 Program. Despite receiving military-style tactics and weapons training, as all SWAT teams do, the Uvalde squad **mostly stood by** while the shooter murdered nineteen students and two teachers.

Finally, interviews with individual police departments have revealed that the 1033 Program made accessing certain types of equipment easier, **particularly for small departments**. However, in the 1033 Program's absence, the departments **observed** that they would likely be able to purchase the equipment through other funding streams.³ This includes other federal programs (such as 1122, discussed below), private police foundations, and local government budgets. Indeed, the agencies **expressed a preference** for these sources since the items are frequently of higher quality. In addition, 1033 equipment is **often outdated and requires frequent maintenance**, offsetting much of the cost savings to law enforcement agencies. This may explain why law enforcement agency budgets are stable even following large acquisitions from the 1033 Program.



1122 PROGRAM

The 1122 federal program also facilitates the procurement of military equipment to police departments. Similar to 1033, the 1122 Program grants state and local law enforcement agencies access to U.S. military equipment. The 1994 NDAA established the program under section 1122 and supports “counter-drug activities.” As part of the **2009 NDAA**, the program expanded to include “homeland security and emergency response activities.” The General Services Administration (GSA) and the Defense Logistics Agency (DLA) oversee the program and provide additional equipment. The DLA monitors the military’s supplies, including weapons to computers, and distributes equipment to local law enforcement under 1033. DLA also manages orders from non-Pentagon agencies and tracks surplus Pentagon equipment.

The 1122 program is distinct from 1033 in that it grants access to new equipment at a discounted rate. However, the program is also significantly less transparent. Since 1122 is not a DOD grant or transfer program, **it is not subject to the same audits or tracking as 1033**. For equipment sold under 1122, ownership is transferred to the purchasing law enforcement agency (LEA), except for certain weapons that must be returned to the DOD upon relinquishment. However, recordkeeping is sporadic, and it is often impossible to know which agencies make purchases, what equipment is transferred, and how weapon returns are enforced. The 1122 program’s opacity raises security concerns over a potential lack of accountability. Generally, other than the GSA’s publishing of **military equipment available through the 1122 Program** and a list of **participating states**, both of which are dated, little information has been made publicly available on the 1122 program. This underscores the importance that this data be released to the public for transparency.

TRIBAL SOVEREIGNTY AND LOCAL MILITARIZATION



U.S. militarism affects Indigenous people and Tribal governments in complex ways. The United States' history of raids and removal of Native people, as well as its continued failure to respect treaties and the inherent sovereignty of Indigenous peoples, has evolved into excessive police violence and disproportionate rates of involvement in the criminal legal system today. According to the **Centers for Disease Control and Prevention and the Minneapolis Federal Reserve**, Native Americans are killed by the police at a higher rate than any other racial or ethnic group. The CDC also **found** that **between 2009 and 2019, Native people were 2.2 times more likely to be killed by the police than white people and 1.2 times more likely than Black people. Between 2015 and 2016, Native Americans were the only population to see a rise in deaths from police shootings.**⁴

In addition, in the **Ninth Federal Reserve District (made up of Minnesota, Montana, North Dakota, South Dakota, Northwestern Wisconsin, and Upper Michigan)**, Native American men are **14 times more likely to have a fatal encounter with law enforcement than white men, and Native American women are 38 times more likely to have a fatal encounter with police than white women.** And during peaceful protests by Native people and their allies against the Dakota Access Pipeline, police officers **attacked** protesters with water cannons, plastic bullets, and flash-bang grenades.⁵

POST 9/11 POLICING OF MUSLIM COMMUNITIES

Policing in Muslim neighborhoods typically includes surveillance, which increased significantly after 9/11 with the Department of Homeland Security (DHS) creation. DHS created various information-sharing **programs** between the FBI and local police. These programs heightened surveillance of Muslim neighborhoods and collected personal information on U.S. citizens and immigrant communities through various means, including spying and using informants. While not explicitly related to a weapons transfer program at the Pentagon, excessive U.S. militarism and decades of U.S.-led wars in Muslim countries has allowed local law enforcement agencies in the U.S. to justify racist policing in Muslim neighborhoods.

The **New York Police Department** has taken some of the most extreme measures in policing Muslim communities. In the aftermath of 9/11, and in the years since, the NYPD **mapped** Muslim neighborhoods in New York City and sent spies to mosques, Muslim student groups, Muslim-owned businesses, and other community centers. One component of this surveillance program, the **Demographics Unit**, worked closely with the **CIA** to track, map, and monitor 28 “ancestries of interest,” which included individuals with ethnic ties to Muslim-majority countries and Black Muslim Americans. The Demographics Unit, and the NYPD, also engaged in photo and video surveillance, tracking, wiretapping, use of informants, spying on Muslim communities with plainclothes officers, and gathering extensive intelligence on innocent Muslim Americans living everyday lives. Despite the expectations of the NYPD and the broader law enforcement community, **none** of these actions led to the uncovering of terrorist activities.⁶

This massive surveillance program was authorized under **The USA PATRIOT Act**, which expanded the federal government’s ability to monitor citizens through wiretapping phones, accessing bank records, and gathering other personal information. The bill passed despite objections from progressive Democrats and Libertarian-leaning Republicans. In addition to the Patriot Act, President George W. Bush authorized the National Security Agency to wiretap Americans’ phones and listen to their international phone calls.

President George W. Bush signs the PATRIOT Act in 2001



Bipartisan disapproval of the PATRIOT Act

Rep. Sheila Jackson-Lee (D-TX-18) and former Reps. Barney Frank and Ron Paul on the PATRIOT Act:

R. Paul: “Demanding domestic security in times of war invites carelessness in preserving civil liberties and the right of privacy. Frequently the people are only too anxious for their freedoms to be sacrificed on the altar of authoritarianism thought to be necessary to remain safe and secure. Nothing would please the terrorists more than if we willingly give up some of our cherished liberties while defending ourselves from their threat.”
September 12, 2001

S. Jackson-Lee: “I do believe that in making our country safe against terrorism, that we do not necessarily need to do away with due process, and that we should not target innocent people unfairly because of their race, color, sexual orientation, creed, gender, or religion.” **October 23, 2001**

B. Frank (on process): “This bill, ironically, which has been given all of these high-flying acronyms, it is the PATRIOT bill, it is the U.S.A. bill, it is the stand up and sing the Star Spangled Banner bill, has been debated in the most undemocratic way possible, and it is not worthy of this institution.”
October 23, 2001

Excessive and needless surveillance and policing of Muslim Americans have contributed to an increase in **hate crimes**, violence, and racism. **According to the FBI, hate crimes rose by 1617% between 2000 and 2001.** Yet in the years after 9/11, more American Muslims were **scared** of racial profiling by law enforcement, police, and immigration officials, than they were of hate crimes.

As Muslim communities were increasingly labeled a domestic terror threat, Islamophobia became a political tool, which exacerbated extreme anti-Muslim views. This was showcased most notably during the 2016 presidential campaign when candidate Trump weaponized a nonexistent threat from Muslim Americans to win over his political base. Once in office, President Trump implemented anti-Muslim policies, such as a **ban on travelers from countries with a Muslim majority**.

THE MILITARIZATION OF U.S. BORDER COMMUNITIES



Photo of U.S. Customs and Border Protection Officers

The transfer of weapons and equipment has also militarized government agencies other than local police and law enforcement. The most notable example is the Department of Homeland Security (DHS). While local law enforcement agencies usually obtain weapons from the Pentagon through the 1033 and 1122 programs, DHS receives weapons through other acquisition measures at the Defense Logistics Agency (DLA).

The scale of DLA's weapons transfers to DHS has led to the over-militarization of the U.S. border. Immigrations and Customs Enforcement (ICE) and Customs and Border Protection (CBP) receive about **\$24 billion annually** in the appropriations process. This means that **the combined federal spending for police departments, prisons, the Pentagon, ICE, and CBP is nearly \$1 trillion**. On top of this, the Trump administration diverted \$6.1 billion in 2019 to fund counter-narcotics and military construction at the border, and \$3.8 billion in 2020 to fund "border wall" construction.

CBP includes the Border Patrol and is the largest law enforcement agency in the country. While it only has the authority to operate within 100 miles of the U.S.-Mexico border, this impacts a huge swath of the country: **nearly two-thirds of the U.S. population lives within this border zone, including nine of the ten largest metropolitan areas**. Since 2010, **more than 100 people have been killed by CBP**, and many more have been subject to violence and shootings, all without any justice or accountability for CBP perpetrators. CBP's broad powers and lack of transparency have created documented patterns of racial profiling and harassment against communities of color, especially those who are perceived as Latino. The presence of CBP, and its frequent **collaboration** with local law enforcement, creates distrust and fear among many immigrant communities. Residents, even when in serious danger, cannot call 911 lest CBP arrive instead of an ambulance.

More than 20 years after the 9/11 attacks and the Department of Homeland Security creation, CBP has become a para-militarized immigration force equipped with weapons from the exorbitant Pentagon budget. The ever-expanding mandate of the CBP has led to the over-militarization of the U.S. border and rampant racial profiling of immigrants and U.S. citizens. The expansion of militarized border enforcement, coupled with the expansion of national security powers and the denial of fundamental Constitutional rights, creates a troubling pattern at the border and beyond.

MILITARY WEAPONS TRANSFERS AND BLACK COMMUNITIES

The over-militarization of state and local law enforcement, supported by weapons of war, has disproportionately affected communities of color and increased police brutality and violence against Black and brown people. Black communities have been subject to police violence, shootings, and killings since before the founding of the United States. Even as rights were codified for the new citizens, Black people were excluded from their protections and were typically subject to the whims and punishments of slave owners. When thrust into the broader legal system, Black people often experience harsher consequences for their actions than white people guilty of similar crimes. This comes from Slave patrols, **a precursor to modern police forces**, which often meted out justice extra-judicially. In many cases, free Blacks were captured by these patrols and sent into or back into slavery. Slave patrols were also authorized to kill Blacks on the spot if they felt threatened.

In recent decades, the severity of police violence has become increasingly deadly due to the expanded availability of military weapons. Riots in Detroit, Watts, D.C., and other places in the 1960s prompted Congress to pass the Omnibus Crime Control and Safe Streets Act of 1968. The legislation allowed local governments to use federal grants to secure military equipment, weapons, and training, and resulted in **many smaller municipalities developing Special Weapons and Tactics (SWAT) teams**. The 1033, 1122, and other weapons transfer programs gave SWAT teams more access to weapons of war and training in combat-zone tactics. Increasingly, police would respond to calls with aggressive force. Rather than meeting the needs of the communities they patrolled, these paramilitary police methods turned some neighborhoods into war zones.

High-profile incidents, such as the killing of 18-year-old Michael Brown of Ferguson, Missouri, during a confrontation with an officer, spotlighted local law enforcement's use of military equipment. The militarization of the Ferguson police force exacerbated the police response during the protests that followed Michael Brown's killing. **Officers used tactical gear and equipment typically seen in military combat, including M4 rifles, tear gas, mine-resistant ambush protected vehicles (MRAPS), and camouflage uniforms to quell demonstrations, raising concerns over the acquisition of such equipment and its use during protests.**

MILITARISM AND MILITARIZATION ABROAD

The U.S. foreign policy establishment's knee-jerk reaction to global crises has traditionally constituted a “military-first” approach—even if the crisis is not military in nature. This strategy has been facilitated by the speed at which the U.S. military can be deployed, fueled by an extravagant Pentagon budget. Moreover, constant commitments to “military readiness” have permitted a culture of hawkishness. And, as discussed throughout this report, the U.S.’ over-militarization abroad has great influence over the practices of police forces here in the U.S.

Military Combat Training

One way militarization abroad continues in police departments at home is through the **training veterans** provide to local police forces when they return from war zones — training that may not be appropriate in non-military settings. Some veterans have been trained in special forces at the Pentagon and have returned to the U.S. to train local police in those same special forces tactics. Other federal “non-military” agencies also sometimes receive similar military training. For example, about **one-third** of CBP are military veterans, which contributes to the spread and learning of militaristic tactics among border patrol. These practices typically occur along the U.S.-Mexico border against Hispanic immigrants and U.S. citizens.



127e Program

Hawkish U.S. policies not only militarize police units in the U.S. but other nations as well, including ones that commit human rights abuses. This primarily occurs under a budget authority referred to as the **127e program**. This program allows U.S. Special Operation forces to train and deploy local military units and police forces to carry out U.S. counterterrorism operations. **The 127e program does not serve a specific legal policy or military operation but allocates \$100 million annually to the DOD to support foreign forces in the pursuit of counterterrorism operations.** Because the program does not define specific military engagements, it can evade existing regulations and legislative vehicles such as Authorization for Use of Military Forces that restrict the use of military force. As a result, it is subject to little accountability and oversight, making it difficult to track even which regions receive 127e funding. The U.S. has special operation forces in **154 countries** and supports foreign units in 22 countries in **Africa**.

Pentagon officials have claimed the 127e program has led to the capture and killings of thousands of terrorists. However, because there is little oversight, there is no accounting of the number of civilians that U.S.-trained forces have killed. In addition to the 127e program, the U.S. has **special operations** presence in countries with a track record of human rights abuses, such as extra-judicial killings, jailing journalists, violence against activists, and abuse of minorities.

The House adopted two amendments when considering the Fiscal Year (FY) 2023 NDAA addressing the 127e program, both offered by Representative Sara Jacobs (D-CA-53). The first **amendment** would require examining the human rights implications of the 127e program. The second **amendment** would require the DOD to submit a report on how it monitors activities under the 127e program.

Law Enforcement Exchanges

Every year, the U.S. trains, equips, and arms an estimated **200,000** foreign police officers, soldiers, and security forces under State Department **foreign security assistance programs**, and even more under DOD “train and equip” authorities. Some of these training participants commit human rights abuses and war crimes. For example, the **Saudi operatives** who murdered Washington Post journalist Jamaal Khashoggi, received paramilitary training under a State Department contract. As **Win Without War** has noted, other recipients of these trainings include the **Colombian police force**, the authoritarian regime of **Egypt’s Abdel Fattah el-Sisi**, the inhumane security forces in the **Philippines**, and the **Israel Defense Forces**. These programs have also resulted in the deaths of U.S. service members in many countries, including during a 2017 incident in Niger, which killed **three U.S. service members**.

Accountability and Militarism

Both American police and the military have committed acts of violence with impunity. U.S. Military actions killed millions of civilians overseas, with little to no accountability for these deaths. During American military engagement in **Iraq, Afghanistan, and Syria, the Pentagon reported that 1,417 civilians were killed from U.S. military and aerial operations. However, discrepancies in the Pentagon's reporting suggest that the actual number is much higher.**⁷ In theory, the Pentagon has civilian protection procedures to ensure minimal or no civilian harm during U.S. military operations. However, these mechanisms are rarely consulted before a military attack: out of **1,311 reports** of civilian deaths, only one was flagged by the Pentagon to include a “possible violation” of efforts to mitigate civilian harm.

The impunity of U.S. military actions abroad, mostly against people of color, is mirrored in domestic policing. Similar legal immunity allows many police officers to commit crimes and murder in the U.S. against people of color without personal or systemic accountability. Police in the U.S. are rarely charged, prosecuted, or convicted on charges of violence and even murder. **Since 2005, just 139 police officers have been arrested for murder. Of those, a mere seven were convicted, and an additional 44 were convicted on charges other than murder.**

Anti-American propaganda abroad has capitalized on how American law enforcement treats Black and brown people at home. During and after the 2020 racial justice protests, many adversaries and authoritarian regimes **called out** the police crackdowns and civil unrest in the U.S. They remarked that it is hypocritical for America to speak in favor of human rights globally when it does not practice it at home. This rhetoric echoes back to the Cold War and Jim Crow era.



Protests at Lafayette Square in Washington DC in May 2020.
Photo by Rosa Pineda.

EXECUTIVE AND CONGRESSIONAL ACTIONS

Executive Action

Concerns over the use of militarized equipment by law enforcement — particularly after violent responses to protestors in Ferguson, Missouri, in the wake of the killing of Michael Brown—led President Obama to sign **Executive Order 13688**. Titled the “Federal Support for Local Law Enforcement Equipment Acquisition,” the executive action instituted a number of new protocols and restrictions for the acquisition of controlled equipment by law enforcement agencies under the 1033 program. It also established a federal interagency Law Enforcement Equipment Working Group (LEEWG) to “identify actions to improve federal support for the appropriate use, acquisition, and transfer of controlled equipment.” In its final recommendations, the Working Group established two lists: a federally controlled equipment list and a list of prohibited military equipment. Within the controlled equipment list, the LEEWG established a series of specific procedures for using and acquiring such equipment, including supervision, evaluation, accountability and training standards. In the prohibited equipment list, the LEEWG banned law enforcement agencies from acquiring military equipment like tracked armored vehicles, bayonets, grenade launchers, and large caliber weapons and ammunition. Additionally, the working group issued a recall for this equipment if agencies had already procured it prior to the prohibition. This policy **resulted in the return** of 126 tracked armored vehicles, 138 grenade launchers, and 1,623 bayonets.

Police sharpshooter at Ferguson, Missouri protests in 2014.
Photo by Jamelle Bouie.



EXECUTIVE AND CONGRESSIONAL ACTIONS

Nevertheless, some experts on police militarization have noted that restrictions from this executive order were **largely ineffective**. The prohibitions included restrictions on equipment that was never transferred in the first place, and were frequently too narrowly focused to have a meaningful impact on overall weapons transfers. For instance, tracked armored vehicles were banned, but this restriction excluded the 87 percent of MRAPs that have wheels instead of tracks.

All rifle transfers—including assault rifles such as M16s and battle rifles like M14s—fall below the .50 “large caliber weapons” threshold, meaning military-grade rifles were still readily available to local agencies. One **analysis** notes that in California, the executive action impacted just 0.2% of military equipment already transferred to California law enforcement agencies. Shortly after taking office in 2017, the Trump administration reversed the Obama administration’s executive order and **reinstated** the 1033 Program. In May 2022, President Biden **signed another executive order** that reinstated and expanded the Obama-era restrictions on the program.

Congressional Action

Beyond action by the executive branch, lawmakers have called on Congress to curtail programs that contribute to the law enforcement’s militarization and to implement reforms that address systemic police misconduct and the lack of oversight and accountability. In addition, in response to the protests against the police killing of Michael Brown in 2014, Representative Hank Johnson (D-GA-04) introduced H.R. 1694, the **Stop Militarizing Law Enforcement Act**, which now has bipartisan support. President Biden’s executive order on policing reflects many aspects of this legislation, but the bill goes further.



EXECUTIVE AND CONGRESSIONAL ACTIONS

The Stop Militarizing Law Enforcement Act would place restrictions and transparency standards on the 1033 Program. For example, it would prevent transfers of certain controlled military equipment, such as “military weapons, long range acoustic devices, grenade launchers, weaponized drones, armored military vehicles, and grenades or similar explosives.” The measure also strengthens tracking requirements and requires recipients of the 1033 Program to certify that they have proper methods to account for weapons received. The certification process also requires agencies to receive the approval of their local commission, board, or council and notify the local community of the transfer. Finally, the measure eliminates a requirement for DOD to give preference to transfers of controlled equipment that will be used in “counter-drug, counterterrorism, or border security activities” and prohibits re-gifting from one agency to another. Another bill entitled the **Demilitarizing Local Law Enforcement Act** by Representative Nydia Velázquez (D-NY-07) would completely repeal the controversial 1033 program in its entirety.

In the FY2022 NDAA, four House lawmakers proposed amendments to restrict or halt the 1033 Program. Representative Alexandria Ocasio-Cortez (D-NY-14) proposed an **amendment** prohibiting the sale of certain items, including firearms and ammunition, grenade launchers, and MRAPs. Representative Ayanna Pressley’s (D-MA-07) **amendment** aimed to restrict equipment transfers further, with a proposed moratorium on all controlled equipment. Representative Nydia Velázquez (D-NY-07) proposed an **amendment** to repeal the 1033 Program by striking the provision of the NDAA that authorizes it. And Representative Hank Johnson’s (D-GA-04) amendment, which has also been incorporated into the **George Floyd Justice in Policing Act**, limits the transfers of some items, like MRAPs, armored drones, grenade launchers, and explosives. These amendments were not included in the final FY2022 NDAA legislation.

For House consideration of the FY2023 NDAA, Representative Hank Johnson (D-GA-04) introduced, but later withdrew from floor consideration, an **amendment** that would prohibit the transfer of military-grade weapons and tactical vehicles and planes under the 1033 Program. Additionally, the House adopted an **amendment** by Representative Veronica Escobar (D-TX-16), which would create a publicly available website that includes comprehensive information on equipment purchased under the 1122 program.

EXECUTIVE AND CONGRESSIONAL ACTIONS

Another bill, the **Breathe Act**, includes more sweeping police reforms, and is supported by a coalition of Black activist groups and Representatives Ayanna Pressley (D-MA-07) and Rashida Tlaib (D-MI-13). While not yet introduced, the bill calls for divestment from the federal criminal-legal system by repealing both the 1033 and 1122 programs within the DOD. It would additionally rescind several programs within the DOJ and DHS that contribute to increased militarization of police departments and over-surveillance of communities of color. The Act also calls for a reduction in the defense budget, with funds to be reinvested into grant programs that serve Tribal communities, survivors of domestic violence, and at-risk youth. The measure would also make a number of changes to federal policing practices, banning qualified immunity for officers and categorically prohibiting officers from using “less than lethal” forms of weapons like rubber bullets, tear gas, and military-grade weaponry.

Lawmakers in the House have also tried to tackle the issue of policing more broadly with measures such as the George Floyd Justice in Policing Act, a bipartisan bill that aims to increase police accountability, end racial profiling, and address police misconduct. Specifically, the measure prohibits racial profiling and mandates training on the issue for all law enforcement, bans chokeholds and certain no-knock warrants at the federal level, limits the transfer of military equipment to state and local law enforcement, eliminates qualified immunity for officers, and improves existing provisions relating to investigation of police misconduct. In particular, the bill would establish a national police misconduct and use-of-force registry. The legislation was passed in the House on March 3, 2021, by a vote of 220-212. Consideration in the Senate is still pending.

ENDNOTES

¹ “Controlled” here is a category implemented by the Department of Defense that applies to several classes of military-grade equipment, such as explosives and munitions. The **DLA notes** that controlled items are technically provided on a loan basis: title remains with DLA. However, **there is little de facto distinction between controlled and uncontrolled equipment**, as recordkeeping is not standardized across law enforcement agencies and equipment is frequently misplaced.

² The DLA has since **made changes** to its federal agency application process in an attempt to eliminate the weaknesses identified by the GAO.

³ The police departments interviewed in the study did **note** that they were often able to free up money in order to fill more urgent needs, such as a new patrol car or overtime.

⁴ All of the statistics here describing patterns of incarceration or police violence likely underestimate the number of Native Americans affected because there are serious deficiencies in data collection on Native communities.

⁵ This account of force by police officers was alleged in a lawsuit filed by the protesters.

⁶ The use of paid informants has usually led to flawed information and the **imprisonment of innocent people**. Informants have been pressured by law enforcement agencies to retrieve incriminating information and statements from subjects, despite the subject not holding any extremist views or having any plan to commit a violent attack. One FBI informant, **Craig Monteilh**, condemned his undercover work and explained how most FBI informant operations focus on entrapment.

⁷ When the U.S. ended its military presence in Afghanistan in August 2021, it left behind roughly **\$7 billion** in military equipment that was earmarked for the Afghan Security Forces—which ceased to exist when the U.S. left. The equipment now remains in Afghanistan under a Taliban-controlled government.

CONCLUSION

The programs discussed in this report are some of the most visible sources and contributors to militarized over-policing in the U.S. and abroad. Rather than meeting communities and people where they are, the militarization of local law enforcement has led to more violence in interactions with the justice system. Around the nation, voters have clearly said that they do not want police departments to use weapons of war **against them or their neighbors**. While Congress has moved to address some of these concerns, the President can use the power of his office, as past presidents have done, to issue executive orders that respond to the desire for safety and accountability. It is incumbent on the government's executive and legislative branches to address the threat militarized law enforcement poses to our basic liberties.

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