



POLICE MILITARIZATION

A 1033 PROGRAM
ANALYSIS

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Research Partners & Acknowledgments



The Policing Project at New York University School of Law partners with communities, policymakers, police, and technology companies across the country to bring democratic accountability to policing so that it better matches American ideals and community needs. Our work is intended to help center a community-driven vision for public safety, one that is equitable, non-discriminatory and respectful of public values.



The Politics of Policing Lab (PoPL) at Emory University cultivates, produces, and supports research about contemporary policing. PoPL partners with researchers, foundations, public safety agencies, and civil society organizations to answer key questions at the intersection of policing, political behavior, and policy change.



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Although the phenomenon of police militarization was not new even then, it leapt to national attention following the killing of Michael Brown in Ferguson, Missouri on August 9, 2014. His shooting by then police officer Darren Wilson set off large protests. Those protests, and the reaction by policing agencies, revealed to the nation what a highly-militaristic domestic police response looks like. There was widespread concern expressed by many, including in the highest levels of government, and across the ideological spectrum. Media, researchers, and community groups argued that the “1033 Program” or “1033”—by which the federal government provides surplus military equipment to policing agencies—was the main factor contributing to police militarization.

The Policing Project, the National Police Foundation and the Politics of Policing Lab at Emory University undertook a study of police militarization and the 1033 Program. Many scholars and policymakers have documented the costs—both monetary and social—of militarized domestic policing agencies. We were particularly interested in what policing agencies would say about the benefits they derived from the 1033 Program. After all, establishing the benefits agencies derived from 1033, if any, can help to establish a more complete picture of the 1033 Program and police militarization, and advance a productive line of research on 1033 acquisition motivations and patterns. ¹

To conduct our study, we visited eight policing agencies and spoke with a variety of individuals familiar with their agency’s participation in the 1033 Program, from line officers to SWAT members to police leadership. We thank the policing agencies and officials that participated. They opened themselves up to scrutiny on a difficult and contentious issue, providing just the sort of transparency that is so important in this space.

This report captures what we learned. We place our findings and recommendations into four categories.

COVER IMAGE

Riot police stage as demonstrators protest the shooting death of teenager Michael Brown in Ferguson, Missouri, August 13, 2014. Reuters/Mario Anzuni

¹ For an overview of the literature and use of benefit-cost equations to assess policing practices, see Maria Ponomarenko & Barry Friedman, *Benefit-Cost Analysis of Public Safety: Facing the Methodological Challenges*, 8 *J. Benefit Cost Anal.* 305 (2017).

I. The 1033 Program Is not the Only, or even Preferred Source of Police Militarization

By focusing on the 1033 Program, much of the country may be missing the real cause of police militarization. It turns out that agencies get much of their militarized equipment not from the 1033 Program but from a raft of other sources—many of which policing agencies prefer because the equipment is newer than what the 1033 Program provides. These include internal police budgets, other federal programs, and even private philanthropic foundations that supply the police with funds for militarized equipment.

RECOMMENDATION: Policymakers, politicians, and advocates concerned about police militarization should widen their lens beyond the 1033 Program to learn about, and regulate, these other sources of police use of militarized equipment. No one should believe that by adjusting or abolishing the 1033 Program, militarization will come to a halt.

II. Other Agencies May Benefit from the Acquisition of “Uncontrolled” Surplus Military Equipment

Our investigation confirms what others have found: The bulk of what policing agencies receive through the 1033 Program is not “controlled equipment”—which is the focus of public debate and includes things like weaponry and armored vehicles—but rather is “uncontrolled” surplus equipment—which includes items such as blankets, office furniture, refrigerators, and power tools. ²

RECOMMENDATION: To the extent that the U. S. Government is giving away tens of millions of dollars in surplus “uncontrolled” equipment like blankets and desks, we call for further investigation by policymakers and researchers into whether other public or nonprofit agencies, such as hospitals or social service agencies, are equally in need of such items and, if so, to explore the benefits and costs from making uncontrolled equipment available to other agencies of government. ³

² As the Defense Logistics Agency (DLA) describes it, such materiel includes “common items DLA would sell to the general public, such as office equipment, first aid kits/supplies, hand tools, sleeping bags, computers and digital cameras.” 1033 Program FAQs, U.S. Defense Logistics Agency, (last visited Nov. 4, 2021).

³ Note that local fire departments can seek and purchase surplus military equipment via DLA auctions. Robert Avsec, How to Buy Government Surplus Fire Trucks, FireRescue1 (2013) (updated July 28, 2020) see, e.g., Tia Ivey, County Acquires New Rescue Truck for \$200, Morgan County Citizen (Dec. 18, 2019).

III. Strengthen Democratic Authorization of the Acquisition of Militarized Equipment, From Any Source

By the end of our study, it was very hard to say something general about whether the acquisition of controlled equipment made sense in terms of saving agencies money or making communities safer. It depends on the individual use of the equipment and the agency using it. For example, we have no doubt about the value of some controlled equipment for search and rescue, but also cannot speak to alternatives to this equipment or how agencies may use this equipment problematically in addition to conducting search and rescue operations. Policing agencies fully understand public concern about the use of militarized equipment, but are determined to obtain the equipment they feel they need, regardless of this concern.

RECOMMENDATION: The correct way to resolve any tension between what the police and the public view as appropriate acquisition of militarized equipment is through the democratic process. No agency should acquire or use any controlled equipment without the approval of local elected officials after full disclosure, and preferably as a part of a taxpayer-funded budget (rather than off-budget funding). Section(b)(5) of 10 U.S. Code § 2576a already conditions 1033 transfers on policing agencies receiving annual authorization from their “relevant local governing body or authority,” but all too often this is a mere formality and does not amount to true democratic control. Key elected officials of local governments who sign off on participation in 1033 should require policing agencies to make public—item by item—their requests to and acquisitions from 1033. They should also offer and discuss in public forums detailed justifications for their policing agency’s requests/acquisitions. All local governments ought to create and maintain a public repository of actions by elected officials regarding the acquisition of equipment under 1033 (e.g., resolutions, reports, memoranda of understanding or agreement). And agencies or jurisdictions should develop use policies that indicate for what the acquired equipment may or may not be used (i.e., for search and rescue or active shooter situation, but not for policing protests).

IV. Improve Recordkeeping and Accounting of 1033 Program

Participation in the 1033 Program mandates that agencies keep track of all controlled equipment, and agencies are subject to random audits. Failure to locate and present individual pieces of equipment can result in suspension from the program. Yet, we learned that the 1033 Program does not provide departments with software or record-keeping standards. This burdens agencies with having to develop their own tracking and inventory systems and leads to wide variation in the quality of that data. Moreover, we learned that it is challenging for agencies to account for the relative costs and benefits of the equipment because reported dollar values are determined by the Department of Defense and set at the original purchase cost, without taking into account equipment age or wear and tear.

RECOMMENDATION: The 1033 Program either should provide integrated inventory data management software to participating agencies, or develop a uniform inventory management system and audit process template for local policing agencies to follow. This would facilitate comprehensive record-keeping, alleviate burdens on individual departments, and allow for more efficiency and transparency, so that the public has the tools to ensure the programs operate appropriately.

BACKGROUND ON THE 1033 PROGRAM

The Department of Defense (DoD) 1033 Program allows the federal government to transfer excess military supplies from the DoD to local and state policing agencies at little or no cost. ⁴ Policing agencies, such as municipal police departments, county sheriff's offices, and college and university police departments, acquire the surplus equipment through the Defense Logistics Agency (DLA). The equipment is intended to assist local policing agencies in their mission.

Congress first authorized the Department of Defense to sell or donate excess military property to local policing agencies in 1990 through the National Defense Authorization Act (NDAA). The act initially was intended to assist agencies in the "War on Drugs" by providing necessary equipment to combat drug production and trafficking. ⁵

⁴ The 1033 Program runs parallel to the federal 1122 Program. The 1122 Program, owned and managed by the Department of Defense, allows state and local governments to use their own funding, but access federal sources of supply for three specific purposes: counter-drug activities, homeland security, and emergency response. 1122 Program, U.S. General Services Admin.

⁵ Aaron Davenport et al., An Evaluation of the Department of Defense's Excess Property Program, RAND Corp., 2 (2018) ; Daniel Else, The "1033 Program," Department of Defense Support to Law Enforcement, Congressional Research Serv., 1-3 (Aug. 28, 2014)

Congress reauthorized the NDAA in 1997 and formally established the 1033 Program—the name of the program reflects the section number (1033) of the 1997 Act. ⁶ Under the reauthorization, policing agencies could acquire excess military property for a wider range of law enforcement purposes, including surveillance, arrest and apprehension, civil disturbances, counter-terrorism, and emergencies and disasters. ⁷

The 1033 Program is administered and managed by the Defense Logistics Agency (DLA) through its Law Enforcement Support Office (LESO). The LESO is responsible for ensuring efficiency, cost effectiveness, inventory control, and transparency. The LESO, along with State Coordinators, must approve policing agencies prior to their participation in the 1033 Program. State coordinators are appointed by governors and are responsible for maintaining accountability records, offering guidance about the program, and preventing program misuse and abuse. State Coordinators have the power to approve or deny any and all acquisition requests before they reach LESO.

Since its inception in 1990, the 1033 Program has transferred more than \$7.5 billion worth of surplus military equipment to sub-national policing agencies. ⁸ As of 2014, over 11,000 agencies have registered with the 1033 Program; as of 2020, around 8,200 use acquired equipment. ⁹ A survey on police agencies' participation in the 1033 Program found that a majority (61% of 1,205 total surveyed) of agencies participated in the program. ¹⁰

Participation in the 1033 Program, and the amount of military equipment acquired, varies substantially by agency size and geographic region. For example, as others have indicated, program participation is greater in agencies located in the Great Lakes and Southeast regions. Participation is higher among smaller agencies with ten or fewer officers, while agencies with 501 to 1,000 officers participated the least. ¹¹

⁶ Davenport, *supra* note 5, at 2–4.

⁷ See Def. Logistics Agency, *supra* note 2 (“Every request for property must have a justification outlining how the property will be used; additionally, requests must be for bona fide law enforcement purposes.”); Barry Friedman & Jessica Gillooly, *Can the Militarization of the Police be Justified?*, American Constitution Society (Sep. 2, 2021).

⁸ Law Enforcement Support Office, U.S. Defense Logistics Agency.

⁹ Else, *supra* note 5, at 3; see also Def. Logistics Agency, *supra* note 2 (“As of June 2020, there are around 8,200 federal, state and local law enforcement agencies from 49 states and four U.S. territories participating in the program.”).

¹⁰ Thomas Johnson & J. Andrew Hansen, *Law Enforcement Agencies' Participation in the Military Surplus Equipment Program*, 39 *Policing: International Journal of Policing Strategies and Management*. 791, 795 (2016).

¹¹ *Id.* at 796–96.

Researchers assessed the influence of violent crime rates, drug arrest rates, and the proportion of community members of color on agencies' participation in the 1033 Program, finding that high violent crime rates increased an agency's likelihood to obtain any equipment from the program. ¹² Moreover, they found that those jurisdictions with higher proportions of Black residents also had more acquisitions of militarized equipment (e.g., weapons, vehicles, and uniform "fatigues") from the 1033 Program—but not of nonmilitarized equipment like medical supplies or office materials. ¹³

Widespread concerns about the 1033 Program surfaced following the 2014 shooting death of Michael Brown by Officer Darren Wilson in Ferguson, Missouri. ¹⁴ Community members took to the streets to protest the killing as well as specific police practices, including exploitative policing to generate municipal revenue. Police responded to the protests in armored personnel carriers, wearing riot gear camouflage clothing, and carrying rifles, further exacerbating tensions with the community. ¹⁵ Media and government officials attributed the militarized response to the agency's participation in the 1033 Program. ¹⁶

Following the 2014 protests against police violence in and beyond Ferguson, President Obama issued Executive Order 13688 to review and improve the 1033 Program. The Executive Order established a federal interagency working group to develop a set of program recommendations, many of which were adopted by the federal government. Under the Executive Order, policing agencies were prohibited from acquiring tracked armored vehicles, bayonets, grenade launchers, large caliber weapons and ammunition. ¹⁷ Agencies already in possession of prohibited equipment were required to return those items. According to the Pentagon, agencies returned 126 tracked armored vehicles, 138 grenade launchers, and 1,623 bayonets in response to the order. ¹⁸

¹² David Ramey & Trent Steidley, Policing Through Subsidized Firepower: An Assessment of Rational Choice and Minority Threat Explanations of Police Participation in the 1033 Program, 56 *Criminology* 812, 8134 (2018).

¹³ *Id.*

¹⁴ Shirley Li, The Evolution of Police Militarization in Ferguson and Beyond, *The Atlantic* (Aug. 15, 2014), For a general discussion of the aftermath, see Shooting Death of Michael Brown - Ferguson, MO, U.S. Department of Justice (2014).

¹⁵ Amber Hildebrandt, Michael Brown Shooting: The Police's Military-Like Response to Missouri, *CBC News* (2014), Amanda Taub, What Was THAT? A Guide to the Military Gear Being Used Against Civilians in Ferguson, *Vox News* (Aug 18, 2014).

¹⁶ Taylor Wofford, How America's Police Became an Army: The 1033 Program, *Newsweek* (Aug. 13, 2014); Li, *supra* note 14; German Lopez, Why did Police have Military-Grade Equipment in the First Place?, *Vox News*, (Jan. 27, 2016).

¹⁷ Bureau Just. Assistance: L. Enft Equip. Working Grp., Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition 4 (May 2015).

¹⁸ Adam Goldman, Trump Reverses Restrictions on Military Hardware for Police, *The New York Times* (Aug. 28, 2017).

The Executive Order also established a class of “controlled” items that policing agencies still could acquire, but only with proper written justification. Controlled items include such things as wheeled armored or tactical vehicles, specialized firearms and ammunition, explosives and pyrotechnics, and riot equipment. **19** In 2017, President Trump revoked Executive Order 13688, reversing restrictions on acquiring 1033 Program equipment. **20**

Nearly six years after Ferguson, the 1033 Program was back in the headlines as cities and towns across all fifty states erupted in mass protests over systemic racism in policing and police violence following the May 25th, 2020 killing of George Floyd by Officer Derek Chauvin of the Minneapolis Police Department. **21** Aggressive police responses to the protests reignited concerns among policymakers, politicians, and members of the public about how the 1033 Program contributed to the militarization of the police. A survey conducted amid the 2020 protests found that 59% of U.S. voters were more troubled by the actions of the police than the violence of protestors. **22**

In response, in December 2020, overriding a veto by President Trump, Congress enacted legislation to reform the 1033 Program. **23** It limited new transfers of bayonets, grenades, weaponized track combat vehicles, and weaponized drones. Additionally, it required policing agencies with 1033 equipment to certify that their police officers receive annual training on citizens’ constitutional rights and de-escalation of force. **24**

Despite continued controversy, there is much about the 1033 Program that remains unknown or under-investigated. We do not know as much as we should about the decisions by local policing agencies to acquire and deploy surplus military equipment and the rationales behind why local policymakers and police executives (i.e., police chiefs and sheriffs) pursue or opt out of such transfers.

19 Bureau Just. Assistance: L. Enf’t Equip. Working Grp., *supra* note 17, at 4.

20 Goldman, *supra* note 18.

21 See Brian Heater, *The 1033 Program Takes Center Stage Again, as Militarized Police Make Headlines*, TechCrunch (June 8, 2020); Janie Haseman et al., *Tracking Protests Across the USA in the Wake of George Floyd’s Death*, USA Today (June 10, 2020); Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. Times (June 9, 2020).

22 Catherine Kim, *Poll: Americans are More Concerned about Police Violence than Violence at Protests*, Vox News (June 7, 2020).

23 The legislation was ratified by the House, vetoed by President Trump, but enacted in law by a veto override in December 2020. Eli Hager & David Eads, *Hidden in Bill Passed Over Trump’s Veto: Limits on Police Militarization*, The Marshall Project (Jan. 8, 2021).

24 *Equipping Law Enforcement Agencies*, ABA (Aug. 27, 2020); Eli Hager & David Eads, *supra* note 23.

Additionally, we do not know the extent of the 1033 Program's influence on public safety, police-community relations, and broader civic consequences. In the following sections, we review what we do know about the potential benefits and costs of 1033 participation, as documented in existing research and discovered in our own study.

The Benefits and Costs of the 1033 Program

There is an ongoing debate about the militarization of policing, especially the militarization of local policing agencies. Often this is discussed or measured by participation in the 1033 Program and the acquisition of surplus military equipment through it. Despite this focus on the 1033 Program, there also is a lack of scientific consensus about its benefits and costs for localities, be they cities or counties.

Proponents of the 1033 Program argue that the program recycles necessary equipment to policing agencies that otherwise could not afford it. They also argue that because only 5% of the equipment provided by the program are small arms, and less than 1% are tactical vehicles, the vast majority of equipment transferred (e.g., cold weather clothing, blankets, first-aid kits, gym equipment, and large storage bins) does not contribute to militarization. ²⁵ Furthermore, they point to *earlier* empirical evidence that suggested even more controversial items such as mine-resistant, ambush protected (MRAP) vehicles not only have legitimate law enforcement uses in cities and counties but greatly contribute to increased officer safety and reduced crime. ²⁶

Critics contend, on the other hand, that the 1033 Program increases law enforcement reliance on SWAT-style raids and other aggressive tactics, which often result in racial disparities in surveillance, use of force, and arrests. ²⁷

²⁵ E.g., Lindsey Cook, *The 1033 Program Is Actually Pretty Boring*, U.S. News (Aug. 25, 2014); see also Davenport et al., *supra* note 5, at 24 (observing that the majority of 1033 Program property transfers constitute noncontrolled property and listing examples).

²⁶ See, e.g., Matthew C. Harris et al., *Peacekeeping force: Effects of providing tactical equipment to local law enforcement*, 9 *Am. Econ. J.: Econ. Pol'y* 291-313 (2017); Vincenzo Bove & Evelina Gavrilova., *Police officer on the frontline or a soldier? The effect of police militarization on crime.*, 9 *Am. Econ. J.: Econ. Pol'y* 1-18 (2017).

²⁷ See, e.g., ACLU, *The War Comes Home: The Excessive Militarization of American Policing* (2014); Charlotte Lawrence & Cyrus O'Brien, *Federal Militarization of Law Enforcement Must End*, ACLU (2021).

One study found a positive association between militarization, measured by the monetary value of 1033 transfers per agency, and officers' use of lethal force on suspects. **28** In addition, critics question the effects of military equipment on police culture, as well as on community perceptions of the police as trustworthy and even legitimate in their actions. **29** Image-based experiments have revealed that the U.S. public may react negatively to photos of police in military-style apparel and vehicles, coupled with carrying arms associated with the military. **30** Such images also may cause members of the public to be less willing to increase funding for police agencies or support having police patrol their neighborhoods.

Most recently, two studies, published in early 2021 by *Nature* and employing data from the Defense Logistics Agency, drew international attention for reporting that neither the number of 1033 Program items nor their dollar values can produce credible effects—positive or negative—about crime reduction or other measures of public safety. **31**

The first study by Gunderson et al. finds that the data used in the aforementioned studies of 1033 Program transfers are unhelpful for determining the public effects and policing consequences of police militarization. **32** Data problems range from discrepancies in the reporting of controlled and uncontrolled items to incomplete coverage of the geography of transfers (i.e., counties missing from the dataset) to inconsistencies in the reported values of controlled and uncontrolled items. **33** Plus, prior studies used the wrong level of analysis. Specifically, prior studies base their findings on 1033 Program data aggregated at the county level, when the appropriate level for studying the impact of the 1033 Program is the jurisdictional level of the policing agency itself. **34** Combining more granular data released by the DLA with near-exact statistical replications of the previous studies demonstrated that incomplete data and the wrong unit of jurisdictional analysis resulted in faulty findings.

28 See, e.g., Edward Lawson, Jr., Trends: Police Militarization and the Use of Lethal Force, 72 *Pol. Res. Q.* 177-189 (2019).

29 See, e.g., Seth Stoughton, Law Enforcement's "Warrior" Problem, 128 *Harv. L. Rev.* 225-234 (2015); Radley Balko, *Rise of the Warrior Cop: The Militarization of America's Police Forces* (2014).

30 Jonathan Mummolo, Militarization Fails to Enhance Police Safety or Reduce Crime but May Harm Police Reputation, 115 *Proc. Nat'l Acad. Sci.* 9181-9186 (2018).

31 Anna Gunderson et al., Counterevidence of Crime-Reduction Effects from Federal Grants of Military Equipment to Local Police, 5 *Nature Hum. Behav.* 194 (2021); Kenneth Lowande, Police Demilitarization and Violent Crime, 5 *Nature Hum. Behav.* 205 (2021).

32 Gunderson et al., *supra* note 31. The authors of that study, who are coauthors on this Policing Project report, conducted their research independently of the research that was the basis for this report.

33 *Id.* at 196-97.

34 *Id.* at 195-96.

The second study by Lowande parallels and deepens those findings, echoing the unreliability of previous studies reporting crime reduction attributable to 1033 Program transfers. ³⁵ Its conclusion came from collecting and reviewing 3.8 million archived DLA inventory records. It also used powerful statistical analyses to determine the effects of the Obama Administration's 2014 recall of a mix of controlled weapons and vehicles of the 1033 Program—akin to “a forced demilitarization of several hundred departments”—on violent crime and officer safety. ³⁶

While the newest studies provide strong and clear counterevidence against earlier studies purporting to find crime-reduction effects of 1033 Program participation for local communities ³⁷, not enough is known about how policing agencies use the equipment they acquire from the 1033 Program, nor about their intentions on its utility.

THE PRESENT STUDY

The present study focuses on 1033, but also looks more broadly at the militarization phenomenon. Our discussion, and the research we conducted, is informed by the principles of cost-benefit analysis (CBA). CBA is intended to encourage government agencies to weigh the benefits and costs of their policies, practices, and strategies, allowing public policymakers to make better-informed decisions for the agencies and the public. Importantly, when we talk about costs in the discussion that follows, we mean not only monetary costs, but also the social costs—the impact on society—of policing practices.

Our study was motivated by three sets of research questions. First, we set out to learn why local policing agencies (police departments and sheriffs' offices) seek surplus military equipment from the 1033 Program, when and how they actually use it, and what they believe are the benefits and costs of possessing and using such surplus military equipment. Next, we asked what principles or policies guide their participation in the 1033 Program. Finally, we asked what data they collect, report, and share about the use of surplus military-grade equipment and how, if at all, police departments and sheriff's offices measure the costs and benefits of using such equipment.

³⁵ Lowande, *supra* note 31.

³⁶ *Id.* at 205.

³⁷ Matthew C. Harris, Jinseong Park, Donald J. Bruce, and Matthew N. Murray. "Peacekeeping force: Effects of providing tactical equipment to local law enforcement," *American Economic Journal: Economic Policy* 9, no. 3 (2017): 291-313. | Vincenzo Bove and Evelina Gavrilova. "Police officer on the frontline or a soldier? The effect of police militarization on crime." *American Economic Journal: Economic Policy* 9, no. 3 (2017): 1-18.

Methods

To answer the research questions, our research team conducted in-person, semi-structured interviews with law enforcement executives at eight agencies that participated in the study, local 1033 Program administrators, and "end users" of 1033 Program equipment in those agencies. Interviews occurred during one- or two-day site visits to agencies in the summer of 2019 and winter of 2020 (interview protocol can be found in Appendix A). We spoke to roughly forty stakeholders involved in the policies, procedures, oversight, and implementation for the use of such equipment. All interviews were recorded and transcribed for inductive content analysis. We also spent considerable time at some sites viewing 1033 equipment and learning about the logistics behind equipment acquisition and auditing. ³⁸

In addition to interview data, our researchers analyzed administrative data on surplus military equipment transfers via the 1033 Program, published by the Defense Logistics Agency. The data included the reported quantity and value of both controlled and uncontrolled items supplied through the 1033 Program to agencies that have participated in the program. ³⁹

A majority of empirical studies of police militarization rely on the DLA, as do policymakers when making claims about police militarization. The DLA is the official public source for identifying the acquisition of military supplies as grants-in-aid to local policing agencies, and has been the most primary data source for researchers examining the potential consequences—good and bad—of police militarization.

Upon completion of the report, we distributed it to the agencies that participated in our study for their review. We heard back from three of the eight agencies and made changes that we thought were appropriate.

³⁸ We also designed and fielded a survey of all 50 state coordinators of the 1033 Program, but a lack of participation by them hindered our ability to understand state-local relationships regarding the program.

³⁹ "Value" here is the original cost the DoD paid for an item when it procured it for use by a branch of the military. The measure neither accounts for depreciation in value since DOD procurement nor equals spending by policing agencies to cover the transfer costs of acquiring items from the DLA.

Site Selection

Agencies were selected based on three criteria. First, in order to ensure that agencies we interviewed participated in and received surplus military equipment from the 1033 Program, we reviewed the Defense Logistics Agency participation data and primarily selected heavy program users. To determine heavy users, we ranked all agencies that received items from 1033 and selected from the top sixty police departments and top seventy sheriff's offices in terms of program usage. We then selected from city agencies and county agencies, separately, that were in the top twenty-five in terms of the dollar value of items (controlled and not controlled) acquired, number of items (controlled and not controlled), number of weapons, and number of combat vehicles. Two agencies in our sample were not heavy users during our study period; however, they were included in our sample because they shared metropolitan areas with other agencies we visited and thus offered a potential comparison group. Second, the National Police Foundation and the Policing Project leveraged existing agency relationships to facilitate cooperation in the study. Third, we attempted to diversify agencies along geographic locations and size characteristics. In exchange for participation, we agreed to keep confidential the identity of particular agencies. ⁴⁰

Ultimately, the final set of agencies varied by geography, size of jurisdiction, and level of participation in the 1033 Program. Because our study was exploratory in nature, these agencies were not intended to be, nor are they, fully representative of the nation's police departments and sheriff's offices. Still, the research yielded a great deal about the 1033 Program that is of value. Among the eight agencies, two were from the West, five from the Southwest, and one from the Midwest. We attempted to recruit two agencies from the East, but they declined to participate. Six jurisdictions had less than 15% Black/African American residents and six had Latino/Hispanic populations over 15%. All of the policing agencies were of medium size or larger. ⁴¹

⁴⁰ We also agreed to provide participating agencies with data about their own usage. The latter function was hindered by the onset of COVID-19, and the protests following the murder of George Floyd, which complicated our follow-up interviews and data requests.

⁴¹ Data on the number of sworn officers came from the 2018 Uniformed Crime Reporting. Following BJS categorization schemes, we define a small force as having fewer than 100 sworn officers, a medium force as having 100-249 sworn officers, and a large force as having more than 250 sworn officers. Bureau Just. Stat., National Sources of Law Enforcement Employment Data (Rev. Oct. 4, 2016). Data on racial and ethnic compositions came from the 2019 American Community Survey 1-year estimates.

FINDINGS

In the following sections, we rely on data provided by the DLA to give a sense of the size and scope of the 1033 Program nationally, as well as interview data from our site visits. We then examine the costs and benefits, relying on these data and our interviews.

The Distribution of 1033 Equipment

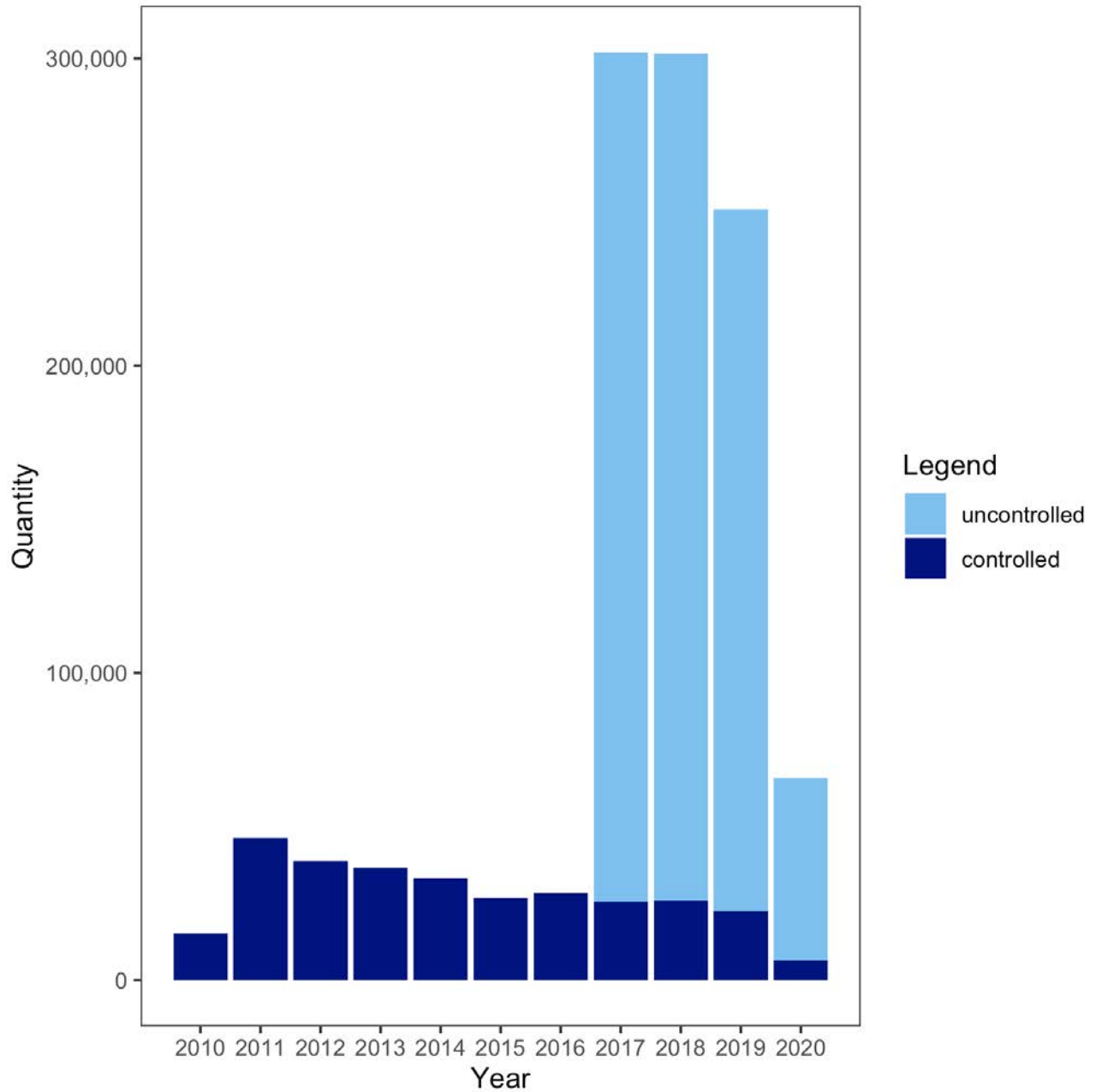
Nationally from 2010 through early 2020, the 1033 Program distributed annually between 250,000 and 300,000 items at a reported value of around \$200,000,000 (Figures 1 and 2). The vast majority of items for 2017-2019 were uncontrolled. Prior to 2017, policing agencies still acquired uncontrolled items, but we were unable to report those transfers because the DLA data on uncontrolled items is maintained for only one year.⁴² Note that the 2020 data depicted in the figures only are from the first three months of that year.

Controlled items comprised only approximately 10% of the annual items acquired through 1033. However, the reported dollar value, determined by the DoD and equaling the original purchase cost, tells a different story: controlled items make up a bit more than half the total value of transfers. This is not surprising, as controlled items include expensive equipment (e.g., aircrafts and armored vehicles).

To get a sense of how 1033 equipment acquisition varies across the U.S., in Figure 3 we map the locations of policing agencies that received controlled or uncontrolled equipment through the 1033 Program from March 2017 through March 2020. Larger points indicate greater quantities and value of acquired equipment. As these maps indicate, the program is geographically widespread. Policing agencies from all regions of the country use the program. More populated areas receive more items. Within regions, there is state to state variability. For example, Colorado uses the program much more than Kansas. The South appears to use the program the most.

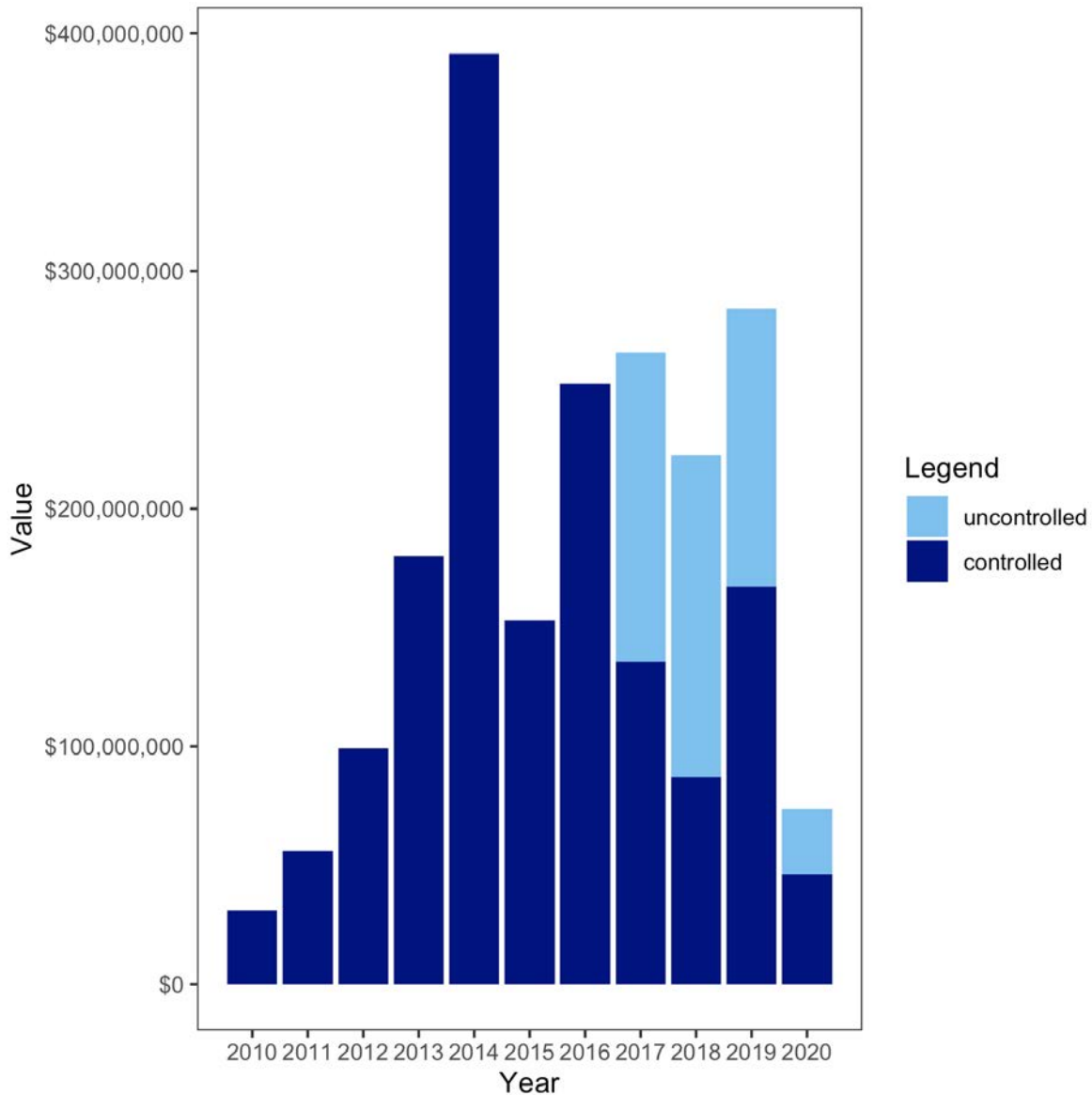
⁴² As the DLA makes clear: "After one year, general [uncontrolled] property becomes the property of the law enforcement agency. It is no longer subject to the annual inventory requirements and is removed from the LESO database."

FIGURE 1
Quantity of Controlled and Uncontrolled Items Acquired Through 1033 Nationally, 2010-March 2020



Note: The DLA designates equipment that has demilitarization (DEMIL) Code A as “uncontrolled” and “controlled” property (equipment) obtained via the LESO Program includes any property that has a DEMIL Code of B, C, D, E, F, G, and Q3. Information on uncontrolled items is only available for March 2017 - March 2020 due to LESO inventory availability and due to the fact that uncontrolled items drop off of the LESO inventory one year after they are shipped. The 2020 data is through the end of March.

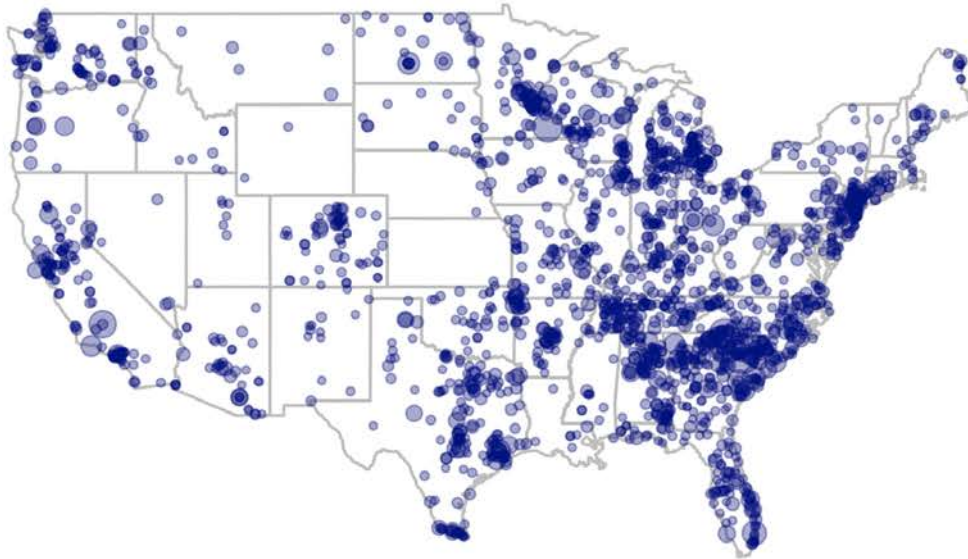
FIGURE 2
Value of Controlled and Uncontrolled Items Acquired Through
1033 Nationally, 2010-March 2020



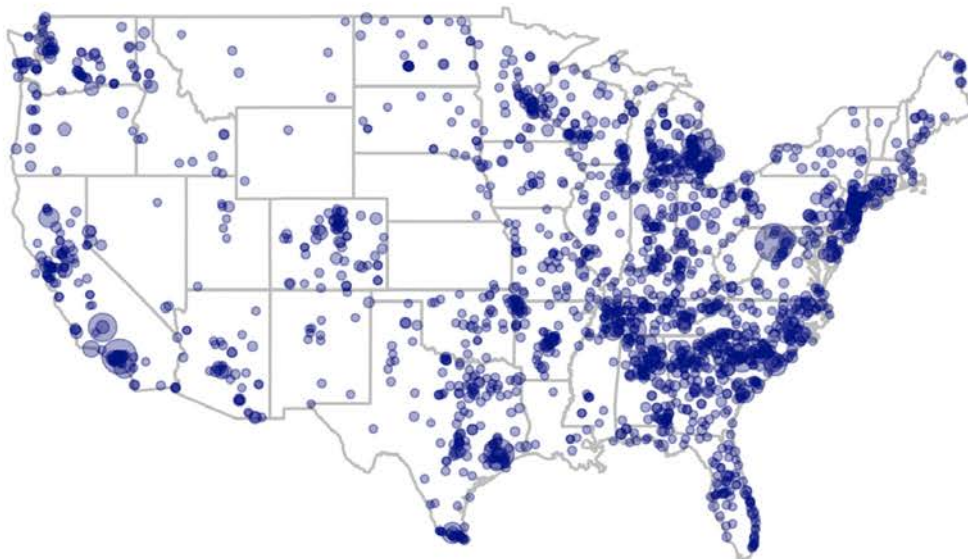
Note: The DLA designates equipment that has demilitarization (DEMIL) Code A as “uncontrolled” and “controlled” property (equipment) obtained via the LESO Program includes any property that has a DEMIL Code of B, C, D, E, F, G, and Q3. Information on uncontrolled items is only available for March 2017 - March 2020 due to LESO inventory availability and due to the fact that uncontrolled items drop off of the LESO inventory one year after they are shipped. The 2020 data is through the end of March.

FIGURE 3
Geographic Distribution of 1033 Controlled and Uncontrolled Items, 2017-March 2020

Controlled Quantity



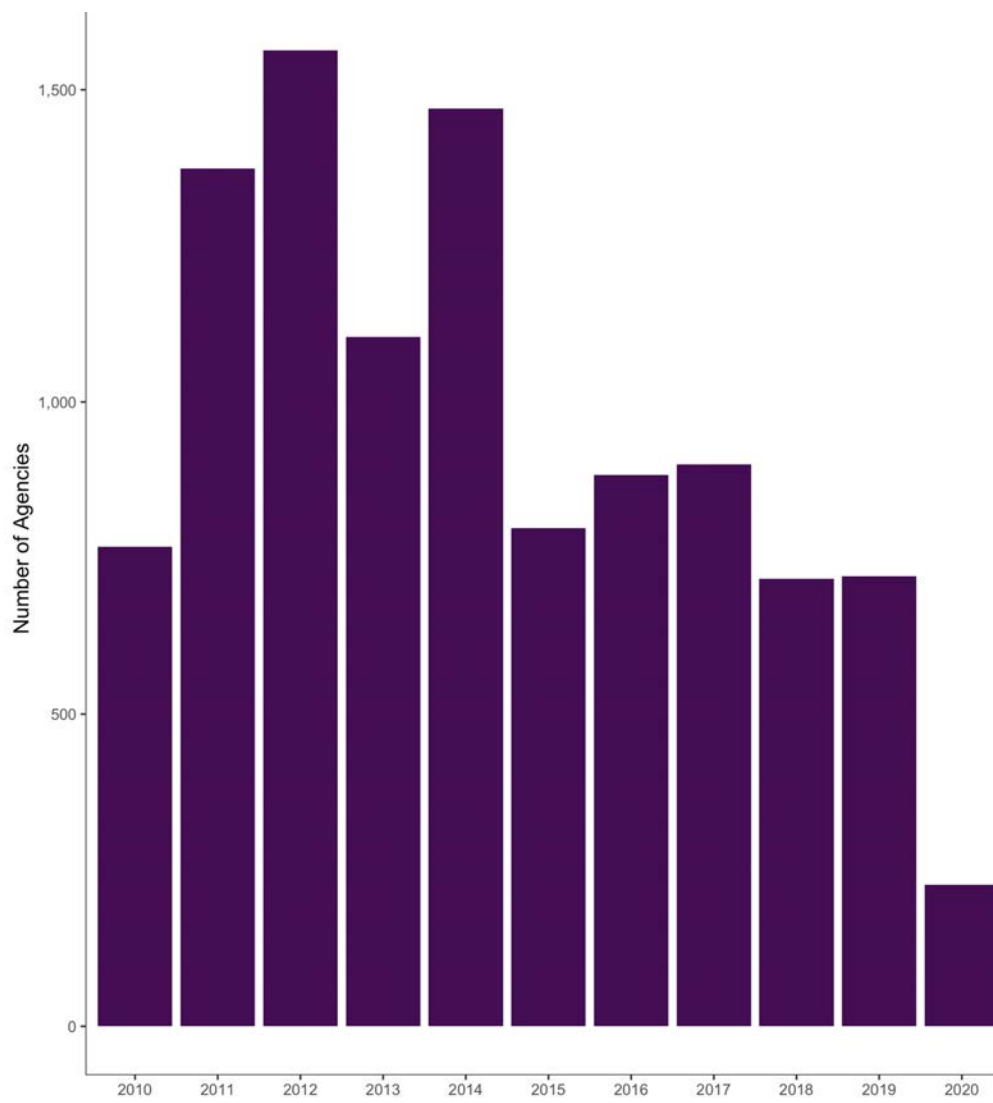
Uncontrolled Quantity



Note: Maps showing the locations of the law enforcement agencies that received controlled or uncontrolled equipment through the 1033 Program from March 2017 through March 2020. Larger points indicate larger quantities or values.

Given public concern over local policing agencies having access to military-grade items, we were interested in learning more about the amount, type, and value of controlled equipment agencies acquired. Of the approximately 18,000 agencies in the U.S., the proportion of agencies receiving controlled equipment is between 2% and 9%, with higher proportions occurring in the years 2011 to 2014. Figure 4 displays the number of unique policing agencies that received controlled equipment from the 1033 Program between 2010 and March 2020 with the maximum number being around 1,500 agencies.

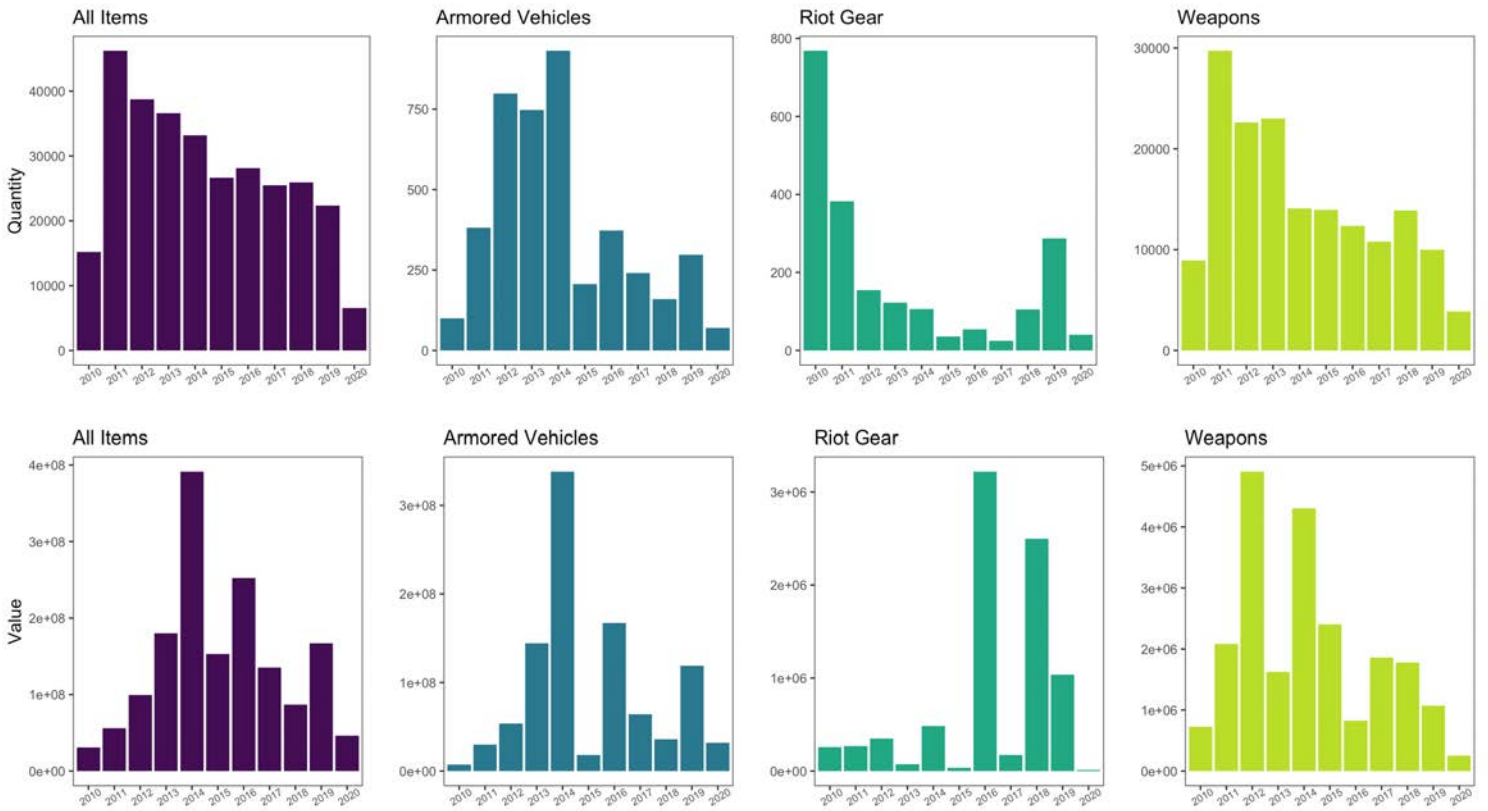
FIGURE 4
Number of Unique Policing Agencies in the U.S. that have Received Controlled Equipment Over Time, 2010-March 2020



Note: There are approximately 18,000 unique policing agencies in the U.S.

Figure 5 shows that weapons were the most frequently acquired controlled item, and riot gear the least. We also see an overall reduction in controlled items following the 2015 Executive Order 13688, which banned certain highly militarized equipment transfers to local policing agencies, though this reduction is not as large as we would have expected. ⁴³ Figure 5 also highlights that armored vehicles account for roughly 85% of the value of transferred items, whereas riot gear and weapons each account for only 1% of all controlled equipment transferred.

FIGURE 5
Total Quantity and Value of Controlled Equipment Transferred Over Time, 2010-March 2020

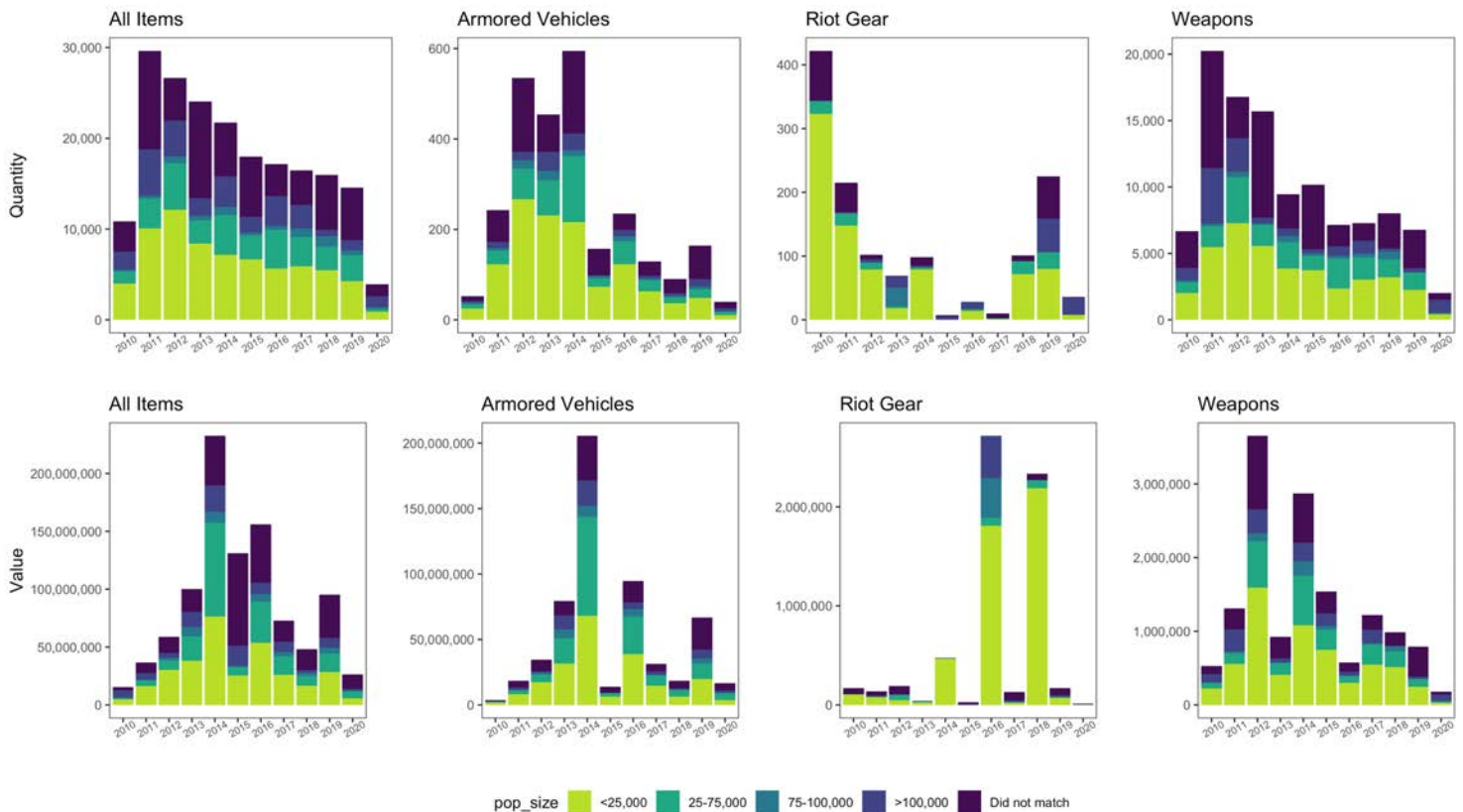


Note: Bars show the total quantity and value of controlled equipment over time by category. The agencies used in this figure are city-level agencies.

⁴³ See Charlotte Lawrence & Cyrus O'Brien, *supra* note 27.

In general, less-populated areas tended to acquire controlled items more. Figure 6 presents the distribution of controlled items by population size. Places with fewer than 25,000 residents had the greatest quantity of controlled items, in particular armored vehicles and riot gear, even after taking into account the fact that smaller agencies are more prevalent across the U.S. Indeed, based on additional calculations we find that smaller agencies receive more items per capita, meaning that smaller agencies acquire a disproportionate share of equipment relative to larger agencies.

FIGURE 6
Total Quantity and Value of Controlled Equipment Transferred Over Time, By Population Size, 2010-March 2020



Note: Bars show the total quantity of controlled equipment over time by category and population size. The agencies used in this figure are city-level agencies. The total quantity is less than is shown in Figure 5 because county-level agencies have been removed in order to classify by population size. Several agencies did not match with census population data due to agency-level and census-level geography not aligning and thus are labeled as “did not match” in the figure.

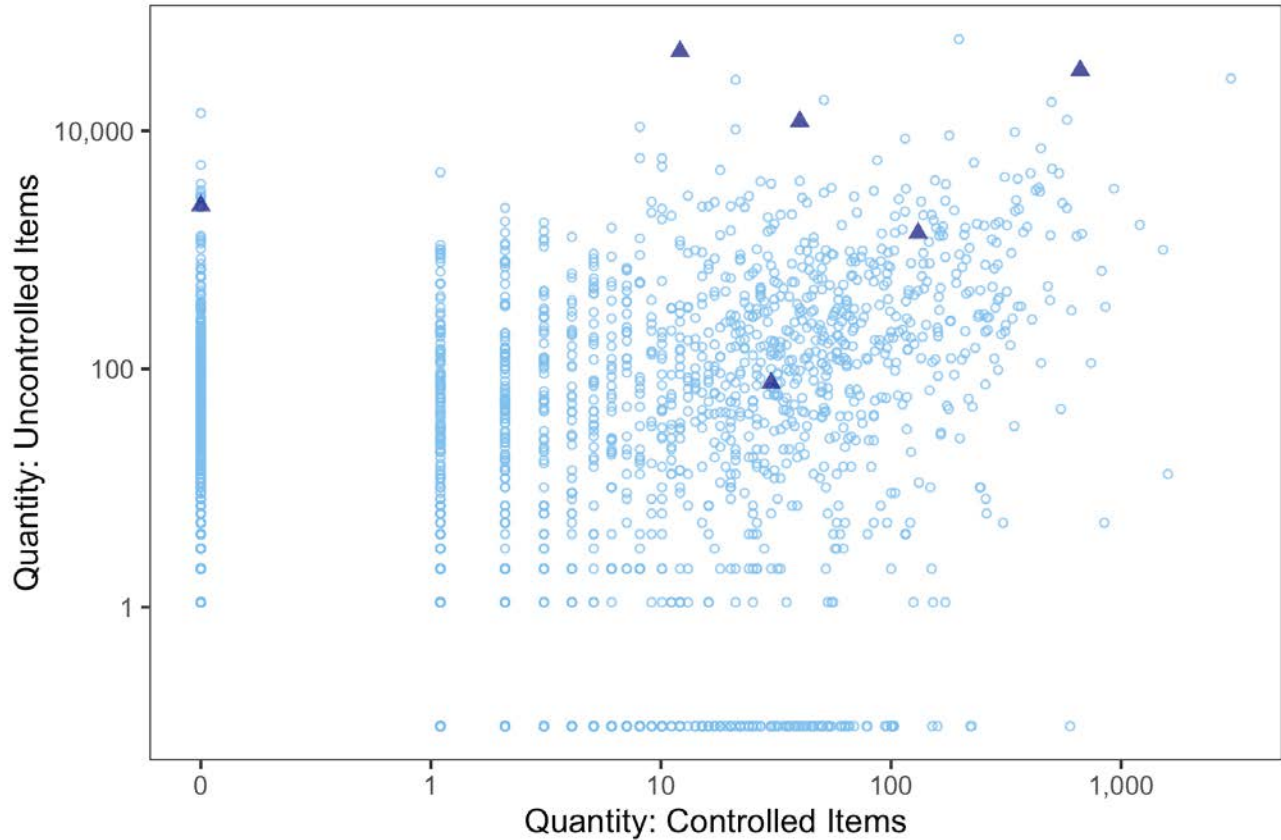
DATA ON AGENCIES IN OUR STUDY

The agencies that participated in this study were relatively heavy users of the 1033 Program, especially for uncontrolled property. [Figure 7](#) shows the quantity of controlled and uncontrolled items obtained by these agencies through the 1033 Program between March 2017 and March 2020. Each 1033 participating policing agency is represented by a circle, with the agencies we visited as labeled triangles. Five agencies in the sample received a substantial amount of controlled and uncontrolled items compared to other participating agencies—averaging about 100 controlled items per year and 10,000 uncontrolled. One agency in our sample was an outlier, receiving almost no controlled items, but roughly 8,000 uncontrolled items.

Much of the uncontrolled equipment that agencies in our sample acquired was used to maintain day-to-day office operations. For example, several agencies told us during interviews that they used 1033 to obtain office furniture, fitness equipment, refrigerators and ice makers, lockers, and washers and dryers to outfit their stations. One agency explained that they had equipped their station's entire kitchen with equipment from 1033. Another agency with a marine unit relied on 1033 for boat ropes because they needed to be replaced frequently. The marine unit also benefited from washers and dryers: "Just the ability to bring in blankets, and towels, and things that we use on the boat and be able to run them through a load of laundry right there at the station and have them clean when I come in the next day saves so much time, saves money. We're not having to send them into central supply into the laundry services, so we get much better use out of them. It's just a lot more convenient." We repeatedly heard agencies express appreciation for 1033 to help sustain daily operations at little or no cost.

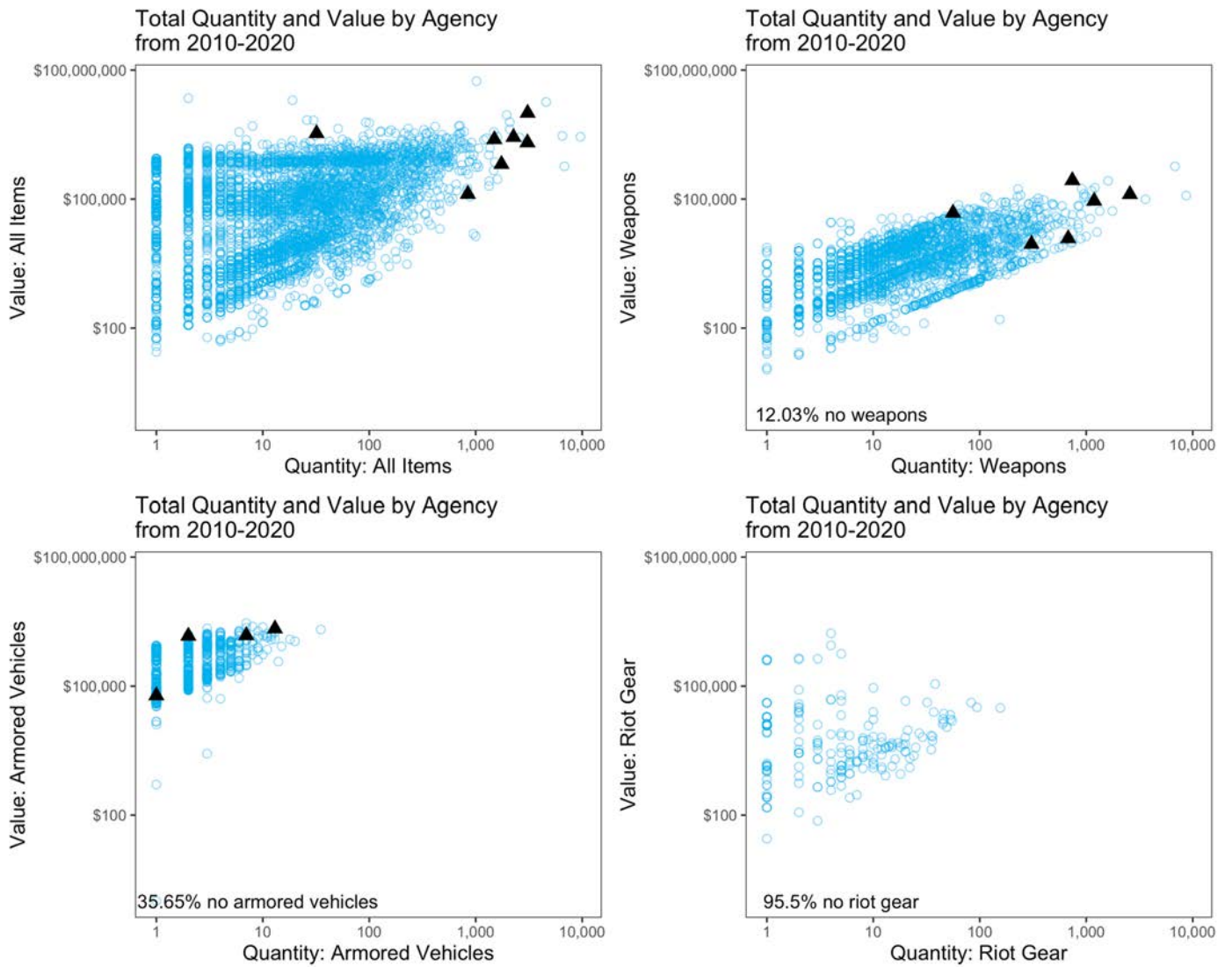
Among agencies in our sample, we also were interested in learning about the types of controlled equipment they had acquired and how it compared to national trends. In [Figure 8](#), we present our agencies, which are labeled with triangles to help contextualize where they fall in the distribution of all agencies receiving controlled 1033 items. Of all agencies participating in 1033 that had acquired controlled equipment from 1033, roughly 88% had obtained weapons or weapons-related property. The figure shows that agencies in our sample were among the heaviest users of 1033 for weapons. They also used 1033 to obtain armored vehicles, but apparently not for riot gear.

FIGURE 7
Quantity of Controlled and Uncontrolled 1033 Items for Agencies in Our Study, 2017-March 2020



Note: The plotted points represent agencies participating in the 1033 Program between March 2017 and March 2020. Triangles represent the agencies that participated in the study. Out of all of the agencies depicted in the plot, 31.3% received no controlled items, and 19.0% received no uncontrolled items. This figure includes only 6 of the 8 agencies we visited because two agencies did not have records in the three-year span of LESO data used to create the figure (March 2017-March 2020). One agency was no longer participating in the program as of March 2017 and another had not received items over this time period. We only present data as far back as 2017 because uncontrolled items are not tracked by the DLA longitudinally. Note that the x-axis and y-axis have been displayed with a logarithmic scale so that, for example, the distance between zero and one is the same as the distance between one and ten.

FIGURE 8
Total Quantity and Value of Controlled 1033 Items, 2010-March 2020



Note: Scatter plots of total quantity and value by agency and category. The percentage of agencies without that item is shown in the lower left corner of the plots.

Table 1 is a list of the top ten most common controlled items participating agencies acquired between 2010 and March 2020. Weapon-related items, such as sights, magazines, and rifles were among the most frequently obtained. At one time, two agencies in our sample supplied every patrol officer and sheriff's deputy with a rifle from the 1033 Program.

TABLE 1
Top 10 Controlled Items Supplied to Agencies in Our Study
2010-March 2020

	Item Name	Quantity
1	SIGHT, REFLEX	3996
2	MAGAZINE, CARTRIDGE	3618
3	RIFLE, 5.56 MILLIMETER	1121
4	ILLUMINATOR, INFRARED	548
5	SIGHT, REAR	349
6	TELESCOPE, STRAIGHT	283
7	SIGHT, HOLOGRAPHIC	226
8	MOUNT, SIGHT	219
9	TRANSMITTER, INFRARED	204
10	KIT, CONVERSION, M16-	190

Recordkeeping Inconsistencies

In the course of our analysis, we discovered some irregularities in the controlled data. Many of these irregularities had to do with the recorded monetary values for the items. Other irregularities were discovered by comparing LESO data on controlled items to the records kept by the departments we visited. For example, Table 2 shows that for the three agencies that shared their equipment inventory data with us, there were vast differences between what agencies claimed they possessed and what was recorded by LESO. One agency had recorded possessing 200 magazine cartridges, but LESO had recorded they acquired 500 from 1033. We cannot determine the source of the errors, whether they be at the local level or with the DLA. Either way, comparing agency quantity to LESO quantity underscores how analyzing data about 1033 is fraught with complication.

Note: Data from seven of the eight site visit agencies are included in this table. One agency was no longer participating in the program as of March 2017 and, thus, we chose to exclude them from this table.

TABLE 2
Example of 1033 Inventory Discrepancies
Between Policing Agencies and LESO

	Agency	Item Name	NSN	Agency Quantity	LESO Quantity	Data Coverage
1	Agency A	Rifle,7.62 Millimeter	1005-00-179-0300	0.00	1.00	LESO Only
2	Agency A	Truck, Utility	2320-01-107-7153	0.00	2.00	LESO Only
3	Agency A	Truck, Utility	2320-01-455-9593	0.00	1.00	LESO Only
4	Agency B	Rifle,5.56 Millimeter	1005-00-073-9421	0.00	2.00	LESO Only
5	Agency B	Sight, Rear	1005-01-484-8000	0.00	75.00	LESO Only
6	Agency B	Magazine, Cartridge Ar15-3	1005-00-921-5004	200.00	500.00	Positive Non-Match
7	Agency B	Sight, Reflex	1240-01-411-1265	29.00	128.00	Positive Non-Match
8	Agency C	Coveralls, Flyers'...	8475-01-226-2784	4.00	0.00	Agency Only
9	Agency C	Helmet, Flyers	8475-01-359-0892	0.00	20.00	LESO Only
10	Agency C	Life Preserver, Vest	4220-01-474-5157	0.00	20.00	LESO Only
11	Agency C	Life Preserver, Vest	4220-01-474-5159	0.00	2.00	LESO Only
12	Agency C	Pistol, Caliber .45, Automatic	1005-00-726-5655	0.00	2.00	LESO Only
13	Agency C	Rifle,5.56 Millimeter	1005-00-856-6885	0.00	1.00	LESO Only
14	Agency C	Rifle,7.62 Millimeter	1005-00-589-1271	0.00	1.00	LESO Only
15	Agency C	Sign Kit, Contamination	9905-01-346-4716	0.00	2.00	LESO Only
16	Agency C	Spectacle, Laser	4240-01-458-5567	0.00	30.00	LESO Only
17	Agency C	Illuminator, Infrared	5855-01-465-2168	4.00	5.00	Positive Non-Match
18	Agency C	Night Sight Vision	5855-01-491-0140	12.00	14.00	Positive Non-Match
19	Agency C	Rifle,5.56 Millim...	1005-00-073-9421	8.00	9.00	Positive Non-Match
20	Agency C	Sight, Thermal	5855-01-524-4314	11.00	14.00	Positive Non-Match
21	Agency C	Viewer, Night Vision	5855-01-501-9529	1.00	10.00	Positive Non-Match

We also discerned wide variation in the means and quality of record-keeping, including of computerization, which may have contributed to the degree of record keeping inconsistencies. Some agencies relied a great deal on physical binders and white boards to track equipment. Others were much more technologically advanced and applied lessons from supply behemoths like Amazon and Walmart to scan, track, and distribute 1033 items.

Note: Data is grouped by national stock number (NSN), includes controlled items only and reflects received inventory data from three of the eight agencies in our sample.

EXPLORING THE BENEFITS OF 1033

One of the reasons we wanted to speak primarily with agencies that were heavy users of 1033 equipment was because despite much public and research attention on the costs of 1033 and militarization, the ostensible benefits often were stated quite generally. We wanted to learn what benefits the user agencies themselves saw in the program, and whether there was any evidence or magnitude of these perceived benefits. Although we certainly gained some perspective on what agencies felt 1033 did or did not contribute (including some that were surprising), it proved extremely difficult to assess the tangibility or magnitude of any ostensible benefits. Nonetheless, we did learn a great deal about the question of militarization and how it should be addressed as a matter of public policy.

Recycling Surplus Items

An asserted benefit of 1033 is that it is a useful method to recycle surplus items. Everyone from rank-and-file officers to higher level police officials explained that it would be wasteful not to acquire and use surplus equipment from the 1033 Program as it had been bought with taxpayer money already. Participation in 1033 was explained as a form of good public stewardship: “The whole thing about this program is, and I don't know what the commander thinks about it, but if your [national and local] taxpayers have already paid for this stuff once, why go pay for it [again locally]?” Another respondent shared a similar perspective, “If you're using this equipment properly, you're actually being great stewards of the resources.” A third respondent also described reuse as a societal benefit: “If we can reuse good equipment that's still serviceable, that the military is not going to use, I mean it only benefits the taxpayers which ultimately we all are the taxpayers.”

Cost Savings

Another asserted benefit of the 1033 Program is that it saves policing agencies money. At every agency we visited, interviewees identified 1033's beneficial fiscal impact. One participant put it simply: “The benefit is that it's free to the police departments.” Another posed the question, “Why should we pay [full price for an item] when we can get it almost free and just maintain it?” Respondents shared, for example, that rifles would cost around \$2,000 per officer, and Steiner binoculars around \$700 per pair, if not for 1033. One agency shared that over an eleven-year period their agency had realized \$10 million in savings from 1033 program participation; however, because the values affixed to items are based on what the military initially paid for them, rather than on what it would cost agencies to acquire this equipment on their own, it is difficult to measure cost savings accurately.

Through our interviews we learned several reasons for why 1033 might not actually save as much money as our respondents claimed. First, equipment from 1033 can wind up being much more costly than expected due to its old age and maintenance requirements. Monthly maintenance costs and parts for tactical vehicles, such as Korean War era helicopters, Vietnam era rifles, and Humvees, end up costing agencies. One respondent resisted acquiring a second Humvee because of the monthly maintenance fees: “Then there’s the expense. The way the accounting works...is that any vehicle in the police department’s fleet we have to pay fleet services a monthly fee for that vehicle.” Another respondent explained an issue with repairing Korean War era helicopters, “The availability of some of that [repair] equipment was difficult, so maintenance was expensive.” Some agencies we visited were in the process of returning items because of the age of the equipment and difficulty maintaining it.

Second, surplus military equipment also can be costly to acquire in terms of travel time and expenses because police officers typically drive to military bases to pick up the items. Depending on the location of the policing agency and the military base where the equipment happens to be available, travel time and cost can be substantial. One interviewee shared an incident in which he had driven over ten hours to pick up a trailer, but left without it because the axles were welded making it too dangerous to drive back. The respondent explained that 80 to 90% of the time the items are acceptable, but in this case “the 10% got us.” Despite not being the norm, respondents’ experience with the program made clear that there is a degree of uncertainty and risk in equipment acquisition through 1033 that can end up being costly and erase some of the purported cost savings benefits.

Third, we have no way of ascertaining if local agencies actually would purchase on the open market as much materiel as they acquire for a nominal cost from the 1033 Program. For example, agencies acquire and stockpile blankets, storage boxes, and tourniquets because it would be useful, in case there was an emergency, but that does not mean they would be stockpiling it if they were not acquiring it as part of 1033. Similarly, jurisdictions acquire very expensive controlled equipment like Humvees that once again they simply might do without were it not sourced through 1033. This is true even of rifles. We do not know if agencies that acquire rifles for all their officers from the 1033 Program would do so if they had to pay for those rifles individually. We did hear from one agency that they were in the process of returning about one-third of their military assault rifles to 1033 and now were requiring their officers to purchase their own patrol rifles on the open market instead.

In short, there may well be cost-savings, but they are very difficult to quantify. Also, to the extent the equipment provided through 1033 is not controlled (i.e., office furniture, fitness equipment, refrigerators and ice makers, lockers) it is unclear why the benefits should flow only to policing agencies as opposed to other governmental and nongovernmental entities. This is a point we make in our recommendations.

Safety

All the agencies we spoke with identified safety—of both officers and public—as a clear benefit. Respondents cited three main reasons for how surplus military equipment produced safety benefits (a) increasing officers' defensive capabilities, (b) policing large-scale violent events such as mass shootings, and (c) preparing for emergencies and disasters. Respondents were less convinced that surplus military equipment increased safety by helping them to fight crime.

Interviewees from participating agencies explained that surplus military equipment increased safety by protecting officers from gun fire. A SWAT member explained that he perceived the main benefit of 1033 as the safety the equipment provided: "Absolutely it's the safety...Not only safety for the officers and safety for the victims and the suspects... you can actually sit and look at someone and someone can shoot at you and you don't have to shoot back." Another respondent's explanation of the safety functions of their BearCat elaborates on this perspective: "[T]hey are defensive in my opinion. They're used to protect officers from gunfire . . .when you kind of turn that around and look at it from that perspective it's not a military vehicle anymore; it's a lifesaving vehicle that protects our officers from gunfire."

In addition to defensive capabilities, agencies also spoke about using 1033 equipment to prepare for large scale instances of violence. One agency explained that 1033 allowed them to upgrade their weapons system and outfit every patrol unit with a rifle, which they said they needed to protect the public and their deputies in the case of a mass shooting. One respondent explained that in response to a mass shooting incident, "We can't show up with an Impala and a handgun...We can't show up and be outgunned." They also spoke about acquiring tourniquets through the program because of how many lives the tourniquets had helped to save during the 2017 mass shooting in Las Vegas in which 60 were killed and hundreds injured. Another agency had concerns over vehicle ramming attacks occurring in their jurisdiction and invested heavily in concrete barriers to prevent such incidents.

Yet, the department had not considered the costs associated with placing the barriers, and said that 1033 allowed them to acquire a forklift to help them move the concrete barriers.

Many interviewees cited 1033's role in emergency preparedness as another major public safety benefit of the program. Seven of the eight agencies we interviewed were located in the West and Southwest and were well-attuned to the potential for natural disasters to strike their regions. Respondents explained that emergency management work was critical to increasing public safety and 1033 afforded them lifesaving equipment to produce safety benefits for themselves and the public. Several agencies described advantages to acquiring Conex containers—large, steel shipping containers—for storing supplies to keep districts/stations running in the case of a disaster, manmade or otherwise. One respondent explained that they outfit each storage container with disaster preparedness items: “We have the disaster preparedness Conex boxes at every station when, not if, but when we have a major event, manmade or otherwise. The stations will be able to respond, keep themselves up and running, which is going to benefit the community hugely.”

Another agency conveyed that the high-water vehicles they obtained from the 1033 Program were instrumental in their emergency rescue missions after serious flooding in the region. An interviewee from this agency touted the lifesaving benefits of the equipment. More than that, they explained that the benefits, “[go] beyond just lifesaving. It's maintaining social structure all the way through the emergency.” By having access to this equipment, the police explained that they were able to prevent a complete societal breakdown from happening during the disaster.

A third agency explained that they had acquired a Humvee through 1033 to help carry emergency personnel up a rugged mountain peak that housed much of the communications equipment for the city in case of an earthquake or other type of disaster. The respondent explained his rationale for acquiring the Humvee: “I don't have anything in my fleet of trucks that can get up that dirt road. That's why we got the Humvee.”

During our interviews we also broached the topic of crime-fighting with respect to safety to see whether respondents believed surplus military equipment reduced crime. Our questions were in response to findings from two highly publicized prominent empirical studies of the 1033 Program transfers that argue the possession of surplus military equipment reduces crime. ⁴⁴

44 Vincenzo Bove & Evelina Gavrilova, *supra* note 26; Matthew C. Harris et al., *supra* note 26.

In response to the question of whether 1033 reduces crime, one respondent used a baseball metaphor: “If you change Mike Trout's bat does it hit any different? Tools are tools. I don't pretend to know how to stop crime.” In other words, this respondent did not believe that 1033 equipment alone stops crime. Another respondent at a different agency expressed a similar viewpoint saying that their agency's crime-fighting abilities would not change if 1033 were to end. When asked about the benefits of 1033, no agencies specifically named crime-fighting, which challenges one of the key rationales for the program.

In our visits we found some evidence to support the argument that surplus military equipment produced safety benefits for the police and public in specific types of situations, such as natural disasters or mass shootings; however, we also learned that it is very difficult to assess or quantify the size of those benefits. Agency readiness is undoubtedly important, but because much of what the respondents discussed applied to future contingencies, not past occurrences, it is hard to determine the “right” level of agency readiness.

RE-EXAMINING THE COSTS OF 1033

Although we anticipated that we would learn more about the extent of any benefits of the 1033 Program from talking with agencies, our visits also revealed the costs, both real and perceived, of police militarization and its impact on public trust in policing. One of the most important findings from this study was that agencies were well aware of public concerns about militarization and took steps to mitigate those concerns, but explained that ultimately they would find some way to obtain the equipment they believed they needed. And, apropos of this, the 1033 Program was not the only, and not always the primary, means by which militarized equipment was obtained.

Understanding the extent to which 1033 contributes to the costs of police militarization is a difficult task. For one, it is not obvious what it even means to be militarized because the term “militarization” lacks a clear definition and means different things to different audiences. ⁴⁵

⁴⁵ Sam Bieler, *Police Militarization in the USA: the State of the Field*, 29 *Policing: Int'l J. Police Strategies & Mgmt.* 586-600 (2016); Maayan Simckes et al., *A Conceptualization of Militarization in Domestic Policing*, 22 *Police Q.* 511-538 (2019). The most widely used definition was proposed by Peter Kraska and includes multiple dimensions, such as the use of military materiel, (e.g. technology and equipment), cultural practices (e.g., the adoption of military-style language, clothing, and values), organizational structure (e.g., the use of “command and control” centers and normalized use of elite squads), and operational tactics (e.g., intelligence gathering, the use of special weapons and tactics teams, and zero-tolerance policing strategies). See *infra* note 41.

In general, though, it pertains to a process whereby police officers and their agencies come to look, act, and operate increasingly like the military. ⁴⁶ For another, it is uncommon for policing agencies to disclose details to outside researchers generally, let alone about problems commonly associated with militarization, such as SWAT raids, police violence, and property damage. ⁴⁷ Despite these hurdles, we attempted to learn how participating agencies think about militarization and the role of 1033.

Public Perception of Militarization

Many personnel at participating agencies did not see militarization as a real problem for their agencies, but recognized broader public concern about militarization, and thus engaged in efforts to mitigate such concerns. As compared to an actual problem, agency participants characterized militarization as a problem of perceptions that existed in an abstract sense but not so much for their specific jurisdictions.

Agency perceptions of militarization

Some respondents acknowledged militarization in one sense, but explained it was not a problem because historically policing in the United States paralleled the military with rank structure and uniforms.

One respondent explained, “A police department is structured, it is a paramilitary organization. We have uniforms, we have a rank structure. It was set up that way. Go back to Robert Peel.” We heard how tactical units, such as SWAT, have been around for decades but only recently have come under attack. A respondent said that his SWAT unit had been around since the 1950s and still uses many of the same tactics. This person attributed any problems with the concept of militarization to the media: “It’s just names that have changed and media spotlight has changed.”

Some respondents outright dismissed the concept of militarization or deemed it meaningless. One respondent cited the media as the culprit in blowing militarization out of proportion.

⁴⁶ Peter B. Kraska, *Militarization and Policing—Its Relevance to 21st Century Police*, 1 *Policing: A Journal of Policy & Practice* 501-513 (2007).

⁴⁷ Maurice Punch, *Policing the Inner City: A Study of Amsterdam’s Warmoesstraat* (1979).

He stated, "I think [militarization] is a complete media lie...Not a misnomer; it's a fabrication." This person went on to say that the news had "made it sound like we were getting...strategic air command bombers." Or, as another respondent shared, "When I hear police militarization, I kind of think it's a joke... I don't see the militarization of the police force in America." One respondent cited the fact that they had conducted roughly 600 civilian rescue missions in one year, twice the number of SWAT unit activations for law enforcement missions, as evidence militarization was not as problematic as the media portrayed.

Other respondents readily conceded the existence of militarized equipment but explained that militarization was not a problem for their agency because their communities wanted their police to have these tools. The tools were understood as valuable to handle hostage negotiations and active shooters. One participant said, "I guarantee you when there's a hostage situation, they [the public] want to see the biggest and baddest tanks coming in to save their lives." Another agency representative expressed the view that, "I can't say that we've ever had anybody complaining that we're getting military stuff." A lack of negative feedback from their immediate community was taken as continued assent for program participation.

Overcoming the perception problem of militarization

Despite denying that militarization was a problem for their agencies and local communities, interviewees recognized broader public concerns about militarization and described how their agencies used a set of tactics to gain or maintain public support from their communities.

Many agencies brought attention to the *function* over the form of surplus military equipment. One agency referred to tanks as "defensive safety boxes" to help the public understand their function: "We send armored vehicles to Kroger every day to pick up cash, right? So we can use these vehicles to protect money. But we can't use them to protect people? . . . Anybody we hear [say] 'tank,' we're like 'No, it's not a tank.'" In response to questions from state lawmakers about the presence of "grenade launchers," this interviewee recounted to us how they explained the possession of the launchers as a "platform to send out tear gas." Another agency recast their armored vehicles as ambulances, "It's not a tank. It's just something that keeps us safe....It's a rated 'advanced life support ambulance.'" In this sense, agencies worked to emphasize the functional use of the equipment to the public by using what they considered was clearer language.

The agencies we visited also physically recast surplus military equipment to make it appear less militarized. Interviewees explained that they changed the appearance of vehicles and aircrafts obtained from 1033 in anticipation of negative public perceptions. Every discussion of police militarization we conducted included depictions of agencies repainting armored and non-armored vehicles, converting them from camouflage to the colors of the agencies, and applying prominent lettering to say "Search and Rescue" or "Civilian Rescue."

Sometimes physical changes were not sufficient to maintain equipment because negative perceptions were too great. One agency, despite having stripped their Humvee down and not having any gun mounts on the vehicle, opted to remove the item from its fleet and transfer it to a different agency hundreds of miles away due to public and Police Commission concerns over seeing a Humvee on the list of equipment. In this case, the agency "had to get rid of it because of the perception."

Additionally, agencies said they took deliberate efforts not to have their officers and deputies appear militarized in their appearance. Several respondents expressed concern about having a militaristic appearance during routine functions of policing (e.g., traffic enforcement, non-emergency calls, visits to schools). A rank-and-file respondent shared with us that their superiors made it clear that officers should not be seen in camouflaged apparel or equipment: "I've specifically been told from a former [commander], that 'I don't want to see these officers running around with camouflage backpacks.'" The concern over camouflaged 1033 gear was brought up by two additional agencies as well.

Agencies also held public events to educate their communities about surplus military equipment. One respondent explained that public events were critical to helping the community understand the presence of military-grade equipment within their agency. This agency held "Touch-a-Truck" events to let children touch and go into police vehicles as a means of familiarizing community members with certain pieces of equipment and their benefits. Another respondent said he used community events to explain that their BearCat is just another tool for officers to perform their jobs and fulfill the mission of the department: "See, this is just one of the tools in our toolbox and just like what's on my belt and what's in my patrol car. This is just a slightly larger, industrial version of that." One agency said they engaged in over 500 community events per year. Such public events, interviewees explained, helped their communities know and understand the need for such equipment and its community benefits, including the safety of officers and the public.

Another strategy agencies used was public relations campaigns to showcase the benefits of surplus military equipment. Some campaigns involved news media and social media to highlight instances where the presence of armored trucks or aircrafts from the 1033 Program or other sources peacefully resolved potentially violent incidents. A respondent explained that their agency used social media to highlight major SWAT situations: “They have the Instagram accounts. They’re very involved with social media posting exactly what my [SWAT] unit does.” Three other agencies focused on public education campaigns to clarify what equipment the agency possessed and its purpose.

In short, agencies seemed well attuned to the cost of the public’s perception of militarization. We documented the ways they sought to deal with this, but have no way of knowing if those strategies were successful. No participating agency fielded local surveys or held focus groups to tap and/or track their residents’ attitudes about the militarization of the police.

Getting the equipment, no matter the perceptual costs

After describing various efforts to gain their public’s approval of the acquisition of surplus military equipment, half of the agencies we visited said they would continue to acquire such equipment if it was needed. One respondent put this bluntly: “At the end of the day [if] there’s something we need, yeah, we’re getting it, we’ll find a way.” Another said that if 1033 were to go away it would not be a particularly large loss for their SWAT unit. Still another explained that if the program were to end, they “eventually might’ve gotten most of this stuff because our departments are also pretty good at getting stuff that we need.”

Many of the agencies we visited viewed the safety benefits of having 1033 equipment as outweighing any perceptual costs. Our findings echo that of the ACLU, which recently found that even after highly publicized police brutality incidents and public outcry, policing agencies did not change their requests for and receipt of military equipment. ⁴⁸ During our interviews, we asked respondents what the potential impact would be to their agencies if the 1033 Program were to end. Respondents overwhelmingly indicated that they would continue to acquire similar types of equipment from other sources. As one respondent concluded, “We would still be getting this stuff without the program. We would just have to be more creative...or something else would have to give.”

⁴⁸ Charlotte Lawrence & Cyrus O’Brien, *supra* note 27.

Indeed, one of the more surprising things we learned is that scaling back the 1033 Program will not eliminate police militarization, because it does not appear that the 1033 Program is the only, or even the primary, source for obtaining militarized equipment. Sources including the Department of Homeland Security's Urban Areas Strategy Initiative, the Defense Department's 1122 Program grant, private police foundations, the Byrne Justice Assistance Grant, internal forfeiture funds and police operating budgets all provide avenues for agencies to acquire military equipment. In fact, several participants expressed a preference for these alternative equipment acquisition methods because they yielded items superior to those available and acquired from the 1033 Program.

Although agencies believed they could acquire the same types of equipment from sources other than 1033, they did recognize that it would take them longer to do so than under 1033. One respondent explained, "It would've taken a couple years to be able to accomplish the same thing that I was able to do in two months with the military surplus program." Another said that it would take years for them to replace the helicopter and night vision optics through other sources. One of the agencies in our study ended its participation in the 1033 Program over equipment auditing discrepancies with LESO, and shared that they were able to replace all of the equipment they had lost. Over the course of three years, the agency replaced the equipment they previously had received from 1033, including police helmets. It took additional work and appeals to city management to replace the items, but eventually, city government approved the requests.

Retaining Flexibility to Use Equipment as Wished

Although some respondents pointed to the life-saving primary use of militarized equipment, they retained flexibility to use the equipment whenever they saw fit. A lack of clarity about when 1033 equipment should and should not be used leaves limited guardrails to protect the public from potentially costly, inappropriate or dangerous deployments. Most of the agencies we spoke with did not have policies stating the conditions under which 1033 equipment could or could not be used. Thus, there largely are no limits on the types of situations in which agencies can use the equipment. For instance, an agency could obtain certain vehicles to use in case of natural disasters; however, without front-end rules guiding equipment usage these vehicles could also be deployed for other types of events, such as protests. This may be not be accidental.

As a respondent from one agency explained with regards to controlled items: “We never want to [be too specific about] what they can and cannot be used for because every situation is a dynamic situation where you think it's going to be this and then it winds up being that.” Instead, this person said they prioritize training their officers to use the equipment appropriately.

Freeing Resources that Expand Policing

Even if 1033 itself is not used to acquire military-grade equipment, but rather to acquire uncontrolled items that help offset the costs of business operations, it effectively still supports the expansion of policing by freeing money for other purposes (e.g., to buy additional vehicles or pay for overtime expenses). One respondent explained that 1033 helped them to reserve some of their budget for other purposes so that, “Maybe we can buy that extra patrol car, which we desperately need. Or maybe...we have a little bit of overtime where we can put officers in a high gang area.” Another respondent similarly explained that 1033 is a “good supplement and allows us to free up funds for other things.” These statements underscore how 1033 unintentionally may expand the presence of police by freeing funds for other activities. In a study of the 1033 Program and police budgets, the ACLU found no evidence of 1033 transfers decreasing police spending.⁴⁹ Future research should test our preliminary findings.

All told, there are several ways in which the 1033 program can produce costs to policing agencies and their communities. Much like the benefits, these costs too were difficult to quantify, but that was hardly the most important point. Rather, it was that agencies acquire, and intend to continue acquiring and using militaristic equipment, no matter the fate of the 1033 Program.

⁴⁹ Id.

CONCLUSIONS AND RECOMMENDATIONS

We began this project to learn about the costs and benefits of the 1033 Program. Below we summarize our findings, and recommendations to improve the program.

I. Evaluate All Acquisition of Militarized Equipment, Not Just the 1033 Program

We learned that policing agencies have many ways to obtain militaristic equipment other than through the 1033 Program. We learned this from the agencies themselves, but in other ways as well. For example, we saw images of policing agencies from our sample in riot gear during the 2020 police protests, despite our analysis of DLA data (Figure 7) indicating those agencies had not acquired riot gear from the 1033 Program. This suggests that agencies are acquiring such items from alternate sources beyond 1033.

Future studies must investigate funding mechanisms beyond the 1033 Program that contribute to the militarization of local policing. This includes private giving through police foundations, the use of civil agency forfeiture funds, as well as other federal programs such as the Department of Homeland Security's Urban Areas Strategy Initiative (UASI), the Defense Department's 1122 Program grant, and Byrne Justice Assistance Grants.

II. Consider Providing Uncontrolled Equipment to Non-Policing Agencies

Calls to eliminate the 1033 Program often fail to differentiate between controlled and uncontrolled equipment. Most of what policing agencies acquire is uncontrolled and quite ordinary. Reusing ordinary surplus equipment such as desks, kitchens, gym furnishings, and power tools is not inherently problematic. However, it is not clear why only policing agencies should benefit from this surplus when there are other government agencies and even non-profit organizations facing resource constraints. Much of the uncontrolled equipment was stored for possible future adverse incidents, which is understandable from an emergency readiness perspective. But it is worth investigating whether much of that equipment could be put to use in the here and now by other types of agencies, such as social service agencies or hospitals.

III. Strengthen Democratically Accountable Channels for the Acquisition of Militarized Equipment

It is very difficult to assess the benefits of distributing controlled items. There likely are some situations in which it produces societal benefits, such as during natural disasters, mass-casualty events, and rescues. Certainly, the use of high-water vehicles during severe flooding, helicopters to perform search and rescue, or rifles in response to mass shootings produce societal benefits. We do not know if the same societal benefits could have been accomplished without surplus military equipment in less costly ways. And, in between large-scale incidents we do not know whether or how the equipment is being used.

Perhaps the best answer to the problems of public perception and mixed-use is to acquire controlled militarized equipment only with the knowledge and approval of democratically-chosen representatives at the local, state, and federal levels, with full disclosure of the financial sources that support acquiring this equipment. And then to adopt policies with democratic input that spell out permissible and impermissible uses of such equipment. Section(b)(5) of 10 U.S. Code § 2576a conditions 1033 transfers on policing agencies receiving annual authorization from their “relevant local governing body or authority,” but this all too often is a formality designed to expedite an acquisition process in which bidders must respond swiftly to secure goods. It does not equate with real democratic approval. It is a one-time annual authorization that does not require local government to actually be aware of, let alone approve, the specific equipment being obtained at any given time. ⁵⁰ And it does not apply to the acquisition of military equipment outside the 1033 program itself. In California, lawmakers are trying to strengthen local oversight through proposed AB 481; however, they have met staunch opposition on the Senate Public Safety floor and from the Peace Officers Research Association of California who argue that such measures would interfere with the ability of police officials to acquire necessary equipment quickly. ⁵¹

Policing agencies should not bear the brunt of controversy. If acquiring militarized equipment is controversial, that controversy should be resolved in the place of government designated to do so.

⁵⁰ Aaron C. Davenport, Jonathan William Welburn, Andrew Laland, Annelise Pietenpol, Marc Robbins, Erin Rebhan, Patricia Boren, and K. Jack Riley. 2018. “An Evaluation of the Department of Defense’s Excess Property Program: Law Enforcement Agency Equipment Acquisition Policies, Findings, and Options.” Santa Monica, CA: RAND Corporation.

⁵¹ Law enforcement and state agencies: military equipment: funding, acquisition, and use. (2021-2022), California Legislative Information.

We recommend that (a) key elected officials of local governments who sign off on participation in 1033 also require policing agencies to itemize and publicize their requests to, and acquisitions from, 1033; (b) key elected officials receive and discuss in public forums detailed justifications for their policing agencies' requests/acquisitions; (c) all local governments create and sustain a public repository of elected officials' actions regarding 1033 (e.g., resolutions, reports, memoranda of understanding or agreement); and (d) all local governments or agencies adopt explicit policies on use of certain equipment, e.g., that it can be used for search and rescue, or defensively in an active shooter situation, but not to police protests.

Future studies should look into how policing agencies acquire "democratically-accountable" support and the degree of interest, awareness, attitudes, and direct or indirect accountability elected officials have regarding their policing agencies' participation in the 1033 Program, as well as in other programs and initiatives that further police militarization.

IV. Improve Accounting for Surplus Military Equipment

Poor record-keeping, data inconsistencies, and dated equipment valuations by the DLA make it nearly impossible to conduct a true cost-benefit analysis of 1033. For the three agencies that shared 1033 inventory data with us, we found discrepancies in inventory between the DLA records and their agency records. Future research should expand upon these findings to test the ubiquity of such data discrepancies.

We recommend better equipment tracking and greater communication between LESO and local policing agencies to rectify inventory discrepancies. Furthermore, we recommend better record-keeping around uncontrolled equipment, such as through a defined inventory management process and auditing standards, to enable an accounting of how much uncontrolled equipment is acquired. DLA should maintain historical records of uncontrolled transfers. And policing agencies also should document better how much of this equipment is used, and when it is used, versus stored, to reduce excessive stockpiling of items.



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