

HOLD UNTIL RELEASED BY THE
U.S. HOUSE OF REPRESENTATIVES

JOINT STATEMENT OF

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PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
FOR ACQUISITION, LOGISTICS AND TECHNOLOGY

AND

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BEFORE THE

HOUSE ARMED SERVICES SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

ON

OVERSIGHT OF FEDERAL PROGRAMS FOR EQUIPPING STATE AND LOCAL LAW
ENFORCEMENT AGENCIES

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Mr. Chairman, Ranking Member Tsongas, Members of the Subcommittee, thank you for the opportunity to appear before you and discuss the Department's transfer of excess military property to law enforcement agencies. I appreciate the Subcommittee's support of the Department and your continued interest in ensuring the success of our mission.

Introduction

The transfer of excess military property to law enforcement agencies is a congressionally authorized program designed to ensure good stewardship over taxpayer resources. The program to transfer excess military property to law enforcement agencies has provided property that ranges from office equipment and supplies to equipment that augments local law enforcement capabilities and enhances first responder support during natural disasters.

Authorization for the Program

The Fiscal Year 1991 National Defense Authorization Act initially authorized DoD to transfer excess property to federal and state law enforcement agencies. The program provides property that is excess to the needs of the Department of Defense for use by agencies in law enforcement, counter-drug, and counter-terrorism activities. The Fiscal Year 1997 National Defense Authorization Act reauthorized this program in Section 1033, from which it gets its common name.

Following the tragic events of 9/11, there was increased congressional emphasis on the transfer of equipment to Federal, State, and local first responders in support of homeland security.

How the Program Works

Once a DoD Component no longer has a need for a piece of equipment or property, it is turned in to the Defense Logistics Agency (DLA) for disposition, which includes reutilization, transfer, donation, or sale. If the property is no longer needed inside the Department of Defense, law enforcement agencies, under this congressionally authorized special program, are entitled to review the excess property to determine whether it would augment their ability to accomplish their mission to aid and protect the public.

A key element in both the structure and execution of the program is the State Coordinator, who is appointed by their respective State Governor. State Coordinators approve

law enforcement agencies within their state to participate in the program. Once approved, law enforcement agencies can review excess property that is turned in for disposal. Law enforcement agencies submit automated requests for specific property along with a description of intended use for each requested item to their State Coordinator for review. The State Coordinator screens the request and subsequently submits electronically the approved requests to DLA. DLA conducts a basic review of requests based on the size of the requesting law enforcement agency (e.g., a requesting law enforcement agency of 10 officers would not receive a transfer of 20 M-16 rifles). Approximately 25% of law enforcement agency requests are denied either by DLA or the State Coordinator based on the size of the law enforcement agency or the justification for the request, or the State Coordinator's lack of confidence in the requesting law enforcement agency. DLA notifies the respective State Coordinator of any denials of law enforcement requests. Approved requests are visible to the State Coordinator and the requesting law enforcement agency via the automated information system. For approved requests, the law enforcement agency is responsible for all transportation, maintenance, and sustainment costs, as well as training its personnel in the proper use, maintenance, and repair of excess DoD property.

Types of Property Available

Greater awareness of the program by law enforcement has resulted in an increase of property transfers in recent years. Approximately 8,000 federal and state law enforcement agencies actively participate in the program across 49 states (all but Hawaii) and three U.S. territories. More than \$5.1 billion (acquisition value) worth of property has been provided since 1990.

There are two types of excess property transferred to law enforcement agencies through this program: non-controlled and controlled property.

Overall, approximately 96% of the property provided to law enforcement agencies has been non-controlled property. This is property without military attributes, such as commercial vehicles, office furniture and supplies, generators, tents, tarps, tool kits, first aid kits, blankets, safety glasses, hand-tools, vehicle maintenance equipment, storage containers, lockers, shelving, and forklifts.

Approximately 4% of the property provided has been controlled, i.e., military designed equipment on the Department of State Munitions Control List or Department of Commerce Control List, such as weapons, aircraft, watercraft, and tactical vehicles. Controlled property is loaned conditionally, and recipients must return the property to DoD for demilitarization at the end of its useful life. DLA maintains accountability over all conditionally loaned equipment and may recall this property at any time.

Certain types of property whose predominant purpose is for combat operations are restricted from transfer outside the DoD (e.g., tanks, fighter aircraft, Strykers, tracked vehicles, weapons greater than 7.62mm, grenade launchers, sniper rifles, crew-served weapons). These items are not provided to law enforcement agencies. Grenade launchers have not been issued to law enforcement agencies under this program since 1999.

Law enforcement agencies determine their need for types of equipment and how the equipment is used. The Department of Defense does not have expertise in state and local police force functions and cannot assess how equipment is used in the mission of an individual law enforcement agency. Property obtained through this program has been used extensively in both the protection of law enforcement officers and the public, as well as for first responder disaster relief support. For example, life-saving equipment obtained through this program was used by police departments in Rye, N.Y., during Hurricane Sandy in October 2012 and in southern Illinois after a tornado hit on November 18, 2013. During the height of Superstorm Sandy, Jersey Shore police drove two cargo trucks and three high mobility, multi-purpose wheeled vehicles (HMMWVs) through water too deep for commercial vehicles to save 64 people. Also during Sandy, police in New York used aircraft received through the program to fly rescue personnel and first responder supplies to remote areas. Indiana police used an excess Coast Guard watercraft in its operations to interdict a major drug trafficking ring along Lake Michigan. In Wisconsin, Green Bay police use donated computers for forensic investigations. During a 2013 flood in Louisiana, Livingston Parish police used six HMMWVs to rescue 137 people. In Texas, armored vehicles received through the program protected police officers during a standoff and shootout with a gang member.

During the 12-month period ending August 2014, law enforcement agencies received approximately 1.9 million pieces of excess equipment: 1.8 million pieces of non-controlled

property and 78,000 pieces of controlled property. The total number of pieces of controlled property currently in the possession of law enforcement agencies that have not been returned for demilitarization since the 1990s is approximately 460,000. Examples of this controlled property include: 92,442 small arms (representing 4% of items currently in possession of law enforcement agencies), 44,275 night vision devices (1.9% of items), 5,235 HMMWVs (0.2% of items), 617 mine resistant ambush protected vehicles (0.03% of items), and 616 aircraft (0.03% of items). To take one example, DLA provided to the Ferguson Police Department two HMMWVs, one generator, and one cargo trailer. Additionally, DLA provided to other St. Louis County Police Departments: 6 pistols, 12 rifles, 15 weapons sights, 1 explosive ordnance disposal robot, 3 helicopters, 7 HMMWVs, and 2 night vision devices.

Program Compliance

DLA conducts bi-annual program compliance reviews of the controlled property provided to each state. These reviews include inventory accountability and reconciliation, and spot checks on randomly selected law enforcement agencies. Non-compliant states are suspended for a minimum of 30 days, and may be terminated from the program. In Fiscal Year 2013, 21 states were temporarily suspended for inventory accountability and management control issues. In Fiscal Year 2014, six states were temporarily suspended for inventory accountability issues. Two states (North Carolina and Alabama) currently remain suspended for inventory accountability issues.

Interagency Review of Federal Programs

The Department is participating in the Administration's Interagency Review of Federal Programs for Equipping State and Local Law Enforcement Agencies to ensure that equipment provided is appropriate to their needs, while enhancing the safety of law enforcement personnel and their communities. We will increase information sharing and collaboration with departments and agencies with programs that provide equipment or funding for the purchase of equipment to State and local law enforcement agencies, alter our procedures, and propose any legislative changes we believe necessary that come as a result of that review or in response to any congressional changes.

Although the Administration's Interagency Review is not complete, the Department is pursuing the following changes to strengthen oversight of the program:

The Department will increase consultation with the Department of Justice (DoJ) and Department of Homeland Security (DHS). Additionally, the Department will notify both DoJ and DHS when a law enforcement agency has been suspended or terminated from the 1033 program. This would allow DoJ and DHS to factor this information into their decision-making process with regards to grant monies provided to these law enforcement agencies. DoJ and DHS, at our invitation, participated in our annual Law Enforcement Support Office conference to review 1033 program execution and address issues. This conference is a forum for the Department and State Coordinators to review federal supply classes in order to verify and validate the classes of equipment transferred under the 1033 program.

The Department is also pursuing stronger implementation criteria with the States. We have informed State Coordinators of the Department's intent to amend the memorandum of agreement with each State Coordinator to reflect a training plan with any request by a law enforcement agency for armored vehicles or assets requiring specialized training.

Conclusion

In summary, the congressionally authorized 1033 program provides property that is excess to the needs of the Department of Defense for use by agencies in law enforcement, counter-drug, and counter-terrorism activities. It enables first responders and others to ensure the public's safety and to save lives. It is also worth noting that we are not "pushing" equipment on any police force. Local law enforcement decides what it needs and accesses our excess equipment through their respective State Coordinators. Although Congress authorizes the transfer of excess equipment to law enforcement agencies, the program does not further the Department's mission; however, the program is a good use of taxpayer dollars, and further enables first responders and law enforcement. We are ready to work with Congress in a deliberate manner to review the program's scope and mission.

Thank you again for this opportunity to discuss the Department's transfer of excess military property to law enforcement agencies. I look forward to answering your questions.