

Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #445

Mobile Field Force Grants (Military Affairs)

[LFB 2017-19 Budget Summary: Page 299, #2]

CURRENT LAW

Wisconsin law requires counties, cities, and those villages with a population of more than 5,000 to provide law enforcement services to their citizens. Towns and smaller villages are also permitted to provide law enforcement services to their residents. In addition, certain state agencies have specifically defined law enforcement responsibilities. These agencies include: (a) the Department of Justice's (DOJ) Division of Law Enforcement Services and its Division of Criminal Investigation; (b) the State Patrol under the Department of Transportation; (c) the State Capitol Police under the Department of Administration; (d) the University of Wisconsin System (UW) campus police forces under the various UW institutions; and (e) the Bureau of Law Enforcement under the Department of Natural Resources.

In addition to these law enforcement agencies, the Department of Military Affairs (DMA) contains the Wisconsin Army and Air National Guard. The mission of the Wisconsin National Guard is to provide fully capable citizen-soldiers and citizen airmen prepared to deploy anywhere, at any time, to support community, state, and federal missions. The federal mission is to provide trained units, soldiers, and airmen in time of war or national emergency, as directed by the President of the United States. The state mission is to assist civil authorities in protecting life and property, and to preserve peace, order, and public safety during emergencies, as directed by the Governor.

GOVERNOR

Authorize DMA to award mobile field force grants to Wisconsin law enforcement agencies to fund crowd-control training and equipment used for crowd control. Under the bill, a Wisconsin law enforcement agency would include a governmental unit of one or more persons

employed full-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state law or local ordinances. Employees of such a unit must be authorized to make arrests for crimes while acting within the scope of their authority.

Provide \$500,000 GPR in 2017-18 to DMA for the purpose of awarding these grants to local law enforcement agencies. Create a continuing GPR appropriation in DMA's emergency management services program for providing mobile field force grants. Since the appropriation is continuing, even though all of the GPR funding for mobile field force grants is appropriated in 2017-18, the Department would be authorized to expend unspent amounts from the appropriation in subsequent fiscal years until fully expended. Under the bill, DMA would be prohibited from requesting an increase in the mobile field force grant appropriation in its biennial budget request for the 2019-21 biennium.

DISCUSSION POINTS

Background

1. The Department of Justice's Law Enforcement Training and Standards Bureau tracks the number of law enforcement officers in Wisconsin. According to DOJ, as of January, 2017, there are 15,448 law enforcement officers in Wisconsin, comprised of 13,192 full-time officers and 2,256 part-time officers. These officers are employed by 566 law enforcement agencies, including municipal police departments, county sheriff offices, tribal law enforcement agencies, district attorney offices, and state law enforcement agencies. The vast majority of law enforcement agencies in Wisconsin are local law enforcement agencies, such as municipal police departments and county sheriff offices.

2. In September, 2016, the Adjutant General (the head of DMA) hosted two discussion groups in Madison and Milwaukee with representatives from various state and local law enforcement agencies. The focus of the discussions was directed towards recent acts of civil unrest that have occurred across the county.

3. In response to acts of civil unrest, law enforcement agencies may deploy mobile field force units (also known as crowd control units) to manage large crowds, maintain traffic control, and provide general saturation presence in order to maintain order and preserve the peace. According to DMA, "Wisconsin Sheriffs, Chiefs of Police and law enforcement leaders from state agencies have determined the level of MFF's [mobile field force units] currently training and equipped through the state are ample for immediate deployment to a single event and sustainable for approximately 72 hours. Beyond that, the availability of forces for a second event or even a more robust response force is limited." Further, the Department states that, "The current challenges include a shortfall [in] the available resources, a wide range of proficiency, training, and equipment. Compounding the issue are agencies who have robust forces but reluctance to deploy outside their jurisdiction due to potential civil unrest in their jurisdiction."

4. The Federal Emergency Management Agency (FEMA) establishes definitions for

different types of mobile field force units utilized by law enforcement, in order to define resource capabilities across jurisdictions. Under FEMA's definitions, there are three types of mobile field force units (Type I, Type II, and Type III), with Type I units being the most robust. Appendix I identifies these three unit types, as well as the equipment, vehicle, and personnel capabilities associated with each type.

5. The extent to which Wisconsin law enforcement have resources for mobile field force units, including trained officers and equipment, is unknown based on available data. Notwithstanding, a 2015 survey of county sheriff offices, police departments, and state agencies conducted by DMA may provide some insight into this issue. In part, the survey gathered information from law enforcement agencies on the number of officers who are trained for various emergency response teams (including crowd control teams). Survey data includes information received from 361 Wisconsin law enforcement agencies, including all 72 county sheriff offices, 285 municipal law enforcement agencies, and four state law enforcement agencies. Of the 361 law enforcement agencies that responded to the survey, 86 agencies indicated that they have 2,413 officers trained for a Type I, Type II, Type III, or Type IV mobile field force unit. These 86 agencies, as well as the number of officers they reported for such units, are identified in Appendix II.

6. In reviewing Appendix II, note the following. First, while FEMA defines Type I, II, and III mobile field force units, certain law enforcement agencies responding to DMA's survey identified Type IV personnel. According to DMA, a law enforcement agency may have identified personnel as part of a Type IV team if the officers may be utilized for crowd control purposes, but lack either the equipment or advanced training necessary to qualify as a FEMA-defined Type III team. Second, while the Milwaukee Police Department (MPD) did not provide information for the survey, the MPD has approximately 300 officers that are a part of the City of Milwaukee Major Incident Response Team, which is a mobile field force unit. Third, survey data includes officers from smaller agencies that may not be part of a formal crowd control team or have the training or equipment that is commonly associated with these units, as defined by FEMA. Finally, the survey does not include information on the frequency with which events occur that require the use of a mobile field force unit.

7. Law enforcement agencies that do not have the capability to respond to events of civil unrest within their jurisdiction may request assistance from other law enforcement agencies. On rare occasion, the Governor may also call the Wisconsin National Guard into state active duty to assist law enforcement agencies with crowd control. Over the previous five calendar years (2012 through 2016), the National Guard has been called into state active duty for such a purpose on two separate occasions under Executive Order (EO) #146 (signed December 22, 2014) and EO #209 (August 14, 2016). According to EO #146 and EO #209, the National Guard was called into state active duty on both occasions to assist the Milwaukee County Sheriff's Office in providing security and other essential services during a time of increased public tension and civil unrest following an officer-involved shooting.

8. In order to be certified as a law enforcement officer by DOJ's Training and Standards Bureau, a recruit must successfully complete a 720-hour preparatory law enforcement officer

training curriculum that is established by the Board. The curriculum covers a wide variety of topics, including, but not limited to, tactical response, crisis management, constitutional law, cultural competence, defensive and arrest tactics, and communications skills. According to DOJ, crowd control is addressed within the tactical response curriculum but no time is allocated to teaching crowd control during a session. While instructors do not spend time on crowd control training, law enforcement officer's student manuals discuss general principals of crowd control. Completion of the preparatory training would generally not qualify as advanced training for a mobile field force unit. In addition to preparatory training, law enforcement officers must complete a minimum of 24 hours of additional training each fiscal year in order to maintain their certification as an officer. State and local law enforcement agencies may provide recertification training to their own officers, and, subject to certain exceptions, law enforcement agencies may specify the content of their 24-hour annual recertification training. As part of this recertification training, officers could receive advanced training to be a part of a mobile field force unit. According to DMA, such training would cover techniques for crowd control, use of force issues, squad formations, and first amendment issues.

Governor's Recommendation

9. In order to provide Wisconsin law enforcement agencies additional resources for crowd control training and equipment, the Governor recommends creating a continuing GPR appropriation within DMA for such a purpose. The bill appropriates \$500,000 GPR to the mobile field force grants appropriation during 2017-18. Since the appropriation is continuing, even though all of the GPR funding for mobile field force grants is appropriated in 2017-18, the Department would be authorized to expend unspent amounts from the appropriation in subsequent fiscal years until fully expended. Grants under the program are intended to be one-time in nature. Law enforcement agencies would be responsible for supporting ongoing costs related to equipment replacement and training. Under the bill, DMA would not have any base funding for mobile field force grants for the 2019-21 biennium.

10. Beyond providing that DMA may award mobile field force grants to law enforcement agencies to fund crowd control training and equipment used for crowd control, the bill does not establish requirements for the grant program. Rather, the bill provides the Department with discretion in administering this program.

11. The Department has provided some insight into how it might administer the program if enacted. The Department would accept applications from law enforcement agencies for funding. Grants would be awarded to law enforcement agencies that agree to become a regional mobile field force resource for neighboring law enforcement agencies. Grant recipients would be required to provide a 25% funding match for any grant for equipment and the cost of training. Allowable equipment purchases under the grant program would generally include: helmets with visors, protective shields, gas masks, shin guards, elbow pads, chest protectors, batons, safety glasses, and gear bags. The Department intends for allowable equipment to include impact protection equipment, but not ballistic protection equipment. Grant recipients would have to agree to maintain the equipment and train officers eight hours each year in crowd control response, with an emphasis on regional training. The Department indicates that the grant structure would be adjusted based on feedback from law enforcement agencies.

12. According to the Department, funding under the bill could support the creation of 50 mobile field force teams across law enforcement agencies, with each team consisting of 12 officers (for a total of 600 officers in the state). This estimate is based on the following: (a) an assumption that the cost of equipping a single officer under the program would cost approximately \$1,000; and (b) an assumption that grant recipients would provide a 25% funding match. [The Department arrived at its cost estimate of \$1,000 per officer through contacting various vendors and discussing a potential equipment list.] Based on these assumptions, the cost of equipping 600 officers at a rate of \$1,000 per officer would total \$600,000, of which \$480,000 would be supported by the mobile field force grant program and \$120,000 would be supported by local match funding. The bill provides \$500,000 GPR for these grants in 2017-18. According to DMA, the remaining \$20,000 could be available to increase grants to law enforcement agencies to offset training costs.

13. As stated above, law enforcement agencies and DMA have expressed concerns with the current level of resources for adequately trained and equipped mobile field force units. In recognition of this concern, the Committee could approve the Governor's recommendation to create the mobile field force grant program [Alternative 1].

14. The Department estimates that the \$500,000 GPR provided under the bill would be able to support equipment for 50 mobile field force teams, with each team consisting of 12 officers (for a total of 600 officers in the state). Given that this is a new grant program, the Committee could decide that it wishes to limit funding for the program at this time, so that it may evaluate the results of the program and determine whether a future investment is prudent. In this case, the Committee could provide \$240,000 GPR for the mobile field force grants in 2017-18 [Alternative 2]. This amount of funding is estimated to support equipment for 25 mobile field force teams, with each team consisting of 12 officers (for a total of 300 officers, or half the number of officers that would be equipped under the bill). This alternative would reduce funding under the bill by \$260,000 GPR in 2017-18.

15. The bill contains a technical issue with regards to the type of law enforcement agency that would be eligible for a mobile field force grant. Specifically, the bill creates statutory language under Chapter 323 of the statutes (Emergency Management) that authorizes DMA to award mobile field force grants to Wisconsin law enforcement agencies, which would include state and local law enforcement agencies. In contrast, the appropriation created under the bill for these grants provides that DMA may utilize funding to award grants to local law enforcement agencies (excluding state law enforcement agencies). In order to correct this contradiction, if the Committee approves the Governor's recommendation, the Committee could specify either that mobile field force grants may be awarded to state and local law enforcement agencies [Alternative 3b].

16. While DMA has provided insight into how it may administer the program if enacted, the bill does not codify any program requirements into statutes. Therefore, the Committee may wish to establish program requirements in order to retain oversight over the administration of the program. If this is the case, the Committee could create any of the following program requirements. [The program requirements identified below are based on DMA's proposed administration of the

program.]:

• *Providing Regional Assistance*. Require that, in order for a law enforcement agency to receive a grant, the law enforcement agency must certify that the grant recipient agrees to act as a regional mobile field force unit resource for neighboring law enforcement agencies for five years following the receipt of the grant [Alternative 4a].

• *Match Requirement*. Require grant recipients to provide matching funds that are equal to 25% of the amount of the grant [Alternative 4b].

• *Limitation On Allowable Equipment Purchases.* Prohibit the use of grant funds for ballistic protection equipment. Further, provide that grant funds may be utilized to purchase impact protection equipment, including, but not limited to, helmets with visors, protective shields, gas masks, shin guards, elbow pads, chest protectors, batons, safety glasses, and gear bags [Alternative 4c].

• *Training Requirement*. Require grant recipients to certify that officers utilized for mobile field force units will receive eight hours of training each year in crowd control and other mobile field force activities for five years following the receipt of the grant [Alternative 4d].

17. The bill includes a provision that would prohibit DMA from requesting an increase in the mobile field force grant appropriation in its biennial budget request for the 2019-21 biennium. According to the administration, the intent of the provision is to further ensure the one-time nature of funding for the program. However, in order to allow agencies to demonstrate its needs to the Governor, the Legislature, and the public, agencies are typically not prohibited from requesting items in their biennial budget request. Therefore, if the Committee establishes the mobile field force grant program, the Committee may wish to delete this provision [Alternative 5].

18. One could question whether DMA is the appropriate agency to administer the mobile field force grant program created under the bill. While the National Guard is, on occasion, utilized to assist local law enforcement agencies respond to instances of civil unrest, grant programs that provide resources to law enforcement agencies are typically administered by the Department of Justice. To this point, DMA indicates, "Additionally, it is not the intent that DMA be the grant administrator for this since we are not a law enforcement entity. While DMA spoke to law enforcement agencies regarding this after our experiences in responding to crowd control issues, the program may be better administered by a law enforcement entity such as DOJ." If the Committee wishes for DOJ to administer the program, rather than DMA, the Committee could transfer the administration of the program to DOJ [Alternative 6].

19. On the other hand, the Committee may wish to maintain current law and remove funding for mobile field force grants [Alternative 7]. Data is not available on the frequency with which events of civil unrest occur that require the use of a mobile field force. In the past five calendar years, the Governor has called the National Guard into state active duty on two separate occasions to assist the Milwaukee County Sheriff's Office during such events. Given the infrequency with which the National Guard has been activated for this purpose, it could be argued that existing law enforcement resources have been sufficient to handle these events. To this point,

DMA has indicated, in part, that, "Wisconsin Sheriffs, Chiefs of Police and law enforcement leaders from state agencies have determined the level of MFF's [mobile field force units] currently training and equipped through the state are ample for immediate deployment to a single event and sustainable for approximately 72 hours." To the extent that an individual law enforcement agency desires additional funding for a mobile field force unit, that law enforcement agency could request funding from its relevant unit of government.

ALTERNATIVES

1. Include the Governor's recommendation to create a mobile field force grant program and provide \$500,000 GPR in 2017-18 to DMA to award grants to law enforcement agencies to fund crowd-control training and equipment used for crowd control. Under this alternative, a continuing GPR appropriation would be created for this purpose. In addition, DMA would be prohibited from requesting an increase in the appropriation in its biennial budget request for the 2019-21 biennium.

ALT 1	Change to		
	Base	Bill	
GPR	\$500,000	\$0	

2. Modify the Governor's proposal by reducing funding under the bill for mobile field force grants by \$260,000 GPR in 2017-18. As a result, funding for the mobile field force grant program would total \$240,000 GPR in 2017-18.

ALT 2	Change to			
	Base	Bill		
GPR	\$240,000	- \$260,000		

3. In order to correct a technical issue with the bill, modify the Governor's proposal in either of the following manners. *Alternative 3a or 3b may be chosen in addition to Alternative 1 or Alternative 2.*

a. Specify that mobile field force grants may be awarded to Wisconsin law enforcement agencies, which would include state and local law enforcement agencies.

b. Specify that mobile field force grants may only be awarded to local law enforcement agencies.

4. Modify the Governor's proposal by creating any of the following statutory requirements associated with the mobile field force grant program. *Alternatives 4a, 4b, 4c, and 4d may be chosen in addition to Alternative 1 or Alternative 2.*

a. Require that, in order for a law enforcement agency to receive a grant, the law

enforcement agency must certify that the grant recipient agrees to act as a regional mobile field force unit resource for neighboring law enforcement agencies for five years following the receipt of the grant.

b. Require grant recipients to provide matching funds that are equal to 25% of the amount of the grant.

c. Prohibit the use of grant funds for ballistic protection equipment. Further, provide that grant funds may be utilized to purchase impact protection equipment, including, but not limited to, helmets with visors, protective shields, gas masks, shin guards, elbow pads, chest protectors, batons, safety glasses, and gear bags.

d. Require grant recipients to certify that officers utilized for mobile field force units will receive eight hours of training each year in crowd control and other mobile field force activities for five years following the receipt of the grant.

5. Modify the Governor's proposal by eliminating the provision of the bill that would prohibit DMA from requesting an increase in the mobile field force grant appropriation in its biennial budget request for the 2019-21 biennium. *Alternative 5 may be chosen in addition to Alternative 1 or Alternative 2*.

6. Transfer administration of mobile field force grant program from the Department of Military Affairs to the Department of Justice. *Alternative 6 may be chosen in addition to Alternative 1 or Alternative 2.*

7. Maintain current law.

ALT 7	Change to			
	Base	Bill		
GPR	\$0	- \$500,000		

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APPENDIX I

FEMA-Defined Mobile Field Force Unit Types

	<u>Type III</u>	<u>Type II</u>	<u>Type I</u>
General Description	A nondesignated team consisting of two 12-person squads and an officer-in- charge (OIC). Each squad includes a supervisor. The team is capable of managing large crowds, traffic control enforcement, and general saturation presence for the purpose of maintaining order and preserving the peace.	A predesignated team consisting of four 12-person squads, an OIC, and a deputy OIC. Each squad includes a supervisor. The team is capable of managing large crowds, traffic control enforcement, and general saturation presence for the purpose of maintaining order and preserving the peace. The team is equipped for chemical, biological, radiological, and nuclear environments. The team engages in routine training to maintain advanced skill level.	A predesignated team consisting of a Type I or Type II tactical team (platoon), which includes four 12-person squads and an OIC and a deputy OIC. Each squad includes a supervisor. The team is capable of managing large-scale operations including managing crowds, traffic control enforcement, and general saturation presence for the purpose of maintaining order and preserving the peace. The team is equipped for chemical, biological, radiological, and nuclear environments. The team engages in routine training to maintain advanced skill level.
Protective Clothing and Safety Equipment	Soft body armor (helmet, face shield, gloves, shin guards), fire resistant clothing, respiratory protection mask, safety glasses, ear protection, fire extinguisher, foul weather gear, hand-held shields, and personal hydration system.	Same as a Type III team, but also includes chemical protective clothing for the entire team.	Same as a Type II team.
Communication and Surveillance Equipment	Team radio communication equipment (portable radios and cellular phones) as well as video equipment.	Same as Type III team.	Same as Type III team.
Weapons, Counter-sniper Equipment, and Chemical Delivery Systems	Department authorized handguns, duty gear and other equipment, riot control batons or approved impact weapons, chemical agents and delivery systems, as well as less lethal munitions and delivery systems.	Same as Type III team, but also includes counter-sniper equipment.	Same as Type II team, but counter-sniper equipment is provided by a special weapons assault team (SWAT).
Miscellaneous Equipment	Bull horns, flex cuffs, and mass arrest kits.*	Same as Type III team.	Same as Type III team.

	<u>Type III</u>	<u>Type II</u>	<u>Type I</u>
Personnel	One OIC, two supervisors, one counter sniper, four grenadiers, 19 officers, and two prison transportation officers.	One OIC, one deputy OIC, four supervisors, two counter snipers, eight grenadiers, 38 officers, and four prison transportation officers.	Same as Type II team, but a field booking team is also recommended.**
Training	While there is no national standard for training, teams are comprised of law enforcement officers with certified advanced training.	Same as Type III team.	Same as Type III team.
Vehicles	Seven patrol vehicles and one prisoner transportation van.	14 patrol vehicles and two prisoner transportation vans.	Same as Type II team.

*A mass arrest kit is a kit containing field booking forms, cameras, flex cuffs, plastic bags for prisoner property, computers, cutting tools for flex cuffs, and fingerprint equipment.

**A field booking team is a team of personnel specifically trained to respond to field incidents and to set up a booking site to facilitate the booking process and transportation of those arrested. The size of the team depends on the nature of the incident.

APPENDIX II

Mobile Field Force Officers By Law Enforcement Agency*

<u>County</u>	Agency	Type I Officers	Type II <u>Officers</u>	Type II <u>Officers</u>	Type IV <u>Officers</u> **
Ashland Barron Bayfield Brown Calumet	Ashland County Sheriff Cumberland PD Bayfield County Sheriff Brown County Sheriff New Holstein PD	26 1		5	8 1
Columbia Dane Dane Dane Dane	Columbia County Sheriff Dane County Sheriff Blue Mounds PD Fitchburg PD Madison PD	41	6	58 81	3
Dane Dane Dane Door Douglas	Middleton PD Sun Prairie PD UW Madison PD Sturgeon Bay PD Douglas County Sheriff			6 74 3 6	6
Douglas Dunn Eau Claire Eau Claire Fond du Lac	Superior PD Dunn County Sheriff Eau Claire County Sheriff Eau Claire PD N. Fond du Lac PD	4 3	14 19	71	
Green Green Lake Green Lake Iowa	Green County Sheriff Monroe PD Green Lake County Sheriff Princeton PD Avoca PD	2		8 17	1 2
Jefferson Jefferson Jefferson Jefferson Kewaunee	Jefferson County Sheriff Jefferson PD Waterloo PD Watertown PD Algoma PD		12	25 2 2	2
Kewaunee La Crosse La Crosse Manitowoc Manitowoc	Luxemburg PD La Crosse PD West Salem PD Manitowoc County Sheriff Manitowoc PD	7	97	15	1 20

County	Agency	Type I <u>Officers</u>	Type II <u>Officers</u>	Type II <u>Officers</u>	Type IV <u>Officers</u> **
Manitowoc Marathon Marathon Milwaukee	Valders PD Marathon County Sheriff Wausau PD Milwaukee County Sheriff			1 76	2 287
Milwaukee	Brown Deer PD			31	
Milwaukee Milwaukee	Fox Point PD Franklin PD	12		59	
Milwaukee	Oak Creek PD			58	
Milwaukee Monroe	UW Milwaukee PD Sparta PD	20			15
Outagamie	Outagamie County Sheriff			15	
Outagamie	Appleton PD Fox Valley Metro PD	2	110		
Outagamie Outagamie	Freedom PD	Z	3		
Pierce	Ellsworth PD				1
Portage Price	Stevens Point PD Park Falls PD	34			5
Racine	Mount Pleasant PD	2			5
Racine Rock	Sturtevant PD Rock County Sheriff	2		12	
ROCK	Rock County Sherm			12	
Rock Sauk	Beloit PD Sauk County Sheriff			50 30	
Sauk	Lake Delton PD			30 16	
Sauk	Sauk Prairie PD				2
Shawano	Bonduel PD		1		
Sheboygan	Sheboygan County Sheriff Kohler PD	60		10	
Sheboygan Sheboygan	Sheboygan PD			10 15	
Taylor	Taylor County Sheriff			8	
Taylor	Medford PD	2			
Trempealeau	Trempealeau County Sheriff	1	4		
Trempealeau Vernon	Arcadia PD Vernon County Sheriff		1	3	
Vernon	Coon Valley PD	1		5	
Vilas	Vilas County Sheriff				20
Walworth	Walworth County Sheriff		22		
Washburn Washington	Shell Lake PD West Bend PD		2		12
Waukesha	Brookfield PD				12 39
Waukesha	Hartland PD	16			

<u>County</u>	Agency	Type I Officers	Type II Officers	Type II Officers	Type IV <u>Officers</u> **
Waukesha	New Berlin PD	17			4
Waukesha	Pewaukee, Village				4
Waukesha	Waukesha PD			22	23
Winnebago	Winnebago County Sheriff			33	
Winnebago	Neenah PD			12	
Winnahago	Omro PD	9			
Winnebago		9		99	
Winnebago	Oshkosh PD	4		99	
Wood	Wood County Sheriff	4		10	
Wood	Marshfield PD			10	
State Agency	Wisconsin Capitol Police	52			
State Agency	Wisconsin State Patrol			443	
	Total - By Type	318	287	1,354	454
	Total - All Types	2,413			

*Note that while the Milwaukee Police Department (MPD) did not provide information for this survey, the MPD has approximately 300 officers that are trained and equipped for the City of Milwaukee Major Incident Response Team.

**According to DMA, a law enforcement agency may have identified personnel as part of a Type IV team if the officers may be utilized for crowd control purposes, but lack either the equipment or advanced training necessary to qualify as a FEMA-defined Type III team.