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STRATEGY Research Project

ENHANCING THE STRATEGIC ROLES OF THE NATIONAL GUARD: DOMESTIC SUPPORT OPERATIONS

BY

COLONEL ISAAC D. PICKERING United States Army National Guard

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by

Colonel Isaac D. Pickering United States Army National Guard

Colonel Morris E. Price, Jr. Project Advisor

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ABSTRACT

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INTRODUCTION

The Army National Guard is uniquely positioned by law, history and roles and missions in support of the state and federal government to ease the increasingly heavier burden of the active Army in some Operations Other than War. They can be a specific value added force in Domestic Support Operations which includes disaster relief, environment assistance, law enforcement assistance when in a state support role, civil disturbance assistance and counterdrug operations. With the uncertainty of the ongoing Quadrennial Defense Review and the likelihood of additional reductions in the active Army, increased reliance on the Army National Guard has significant strategic advantages.

Any event or circumstance causing widespread destruction and distress can be called a disaster. Disasters can strike anytime, anyplace, and anywhere. They can be delivered by a hurricane, an earthquake, a tornado, a flood, a fire, or a hazardous spill. Disasters wreak grave misfortune, it can be an act of nature or even acts of terrorism; they may build over days or weeks, or hit suddenly and violently without warning.

Never before in our history has the United States government been so inundated with requests for assistance in response to numerous varied natural and man-made disasters. When disaster strikes, local and municipal governments call on their state governor for help. Frequently, governors quickly dispatch the state's National Guard units to respond to the disasters. The Army National Guard is ideally equipped to provide military support to civil authorities in a wide variety of missions.¹ This paper will analyse National Guard strategy to provide the first and best choice to respond to domestic support operations.

Support of domestic operations is not new to the Army National Guard. This type of support dates back to early colonial times when the National Guard provided support to the fledgling states and territorial governors. In the early years of the Republic, Congress recognized that the Army and National Guard possess the inherent capabilities to provide domestic military support. Congress passed laws recognizing that the National Guard in a state status has the primary responsibility of providing military support when assistance is required.

This strategy is based on the concept that all able-bodied citizens have the privilege and responsibility of bearing arms for the common defense of their country. This tradition began in the 17th century with the organization of militia in the various colonies. Since that time, the National Guard has fought in

every major American conflict including Operation Desert Storm in 1991.

The National Guard traces its direct heritage to the organization of the North, South, and East Regiments in the Massachusetts Bay Colony on December 13, 1636. By the end of the Revolutionary War, the Founding Fathers recognized the important role the militia had played in winning the Nation's independence. Although the authors of the Constitution empowered Congress to "provide for organizing, arming and disciplining the militia" they reserved the appointment of officers and training of the militia to the States in recognition of the militia's State role. This strategy provided the basis for the National Guard's dual status and mission assignments.²

The distinction between the Federal and State roles of the National Guard was formalized in 1956 when Congress provided for Federal, State, and territorial differences in the United States Code (USC). These laws make provisions for the differences in the employment of the military as Federal or State/territorial forces. Laws pertaining to the Federal role of the National Guard are contained in Title 10 of the USC, while laws relating to State/territorial roles are contained in Title 32 of the USC.³

Federal training duty under Title 32 USC, allows a Guardsman to support civil authorities either during Annual Training (AT), Inactive Duty Training (IDT), usually referred to as a weekend drill, or a Unit Training Assembly (UTA). The last is a federal training duty status referred to as Title 32 USC.⁴

ROLES AND MISSIONS

The National Guard in a state active duty (SAD) status is recognized by the Army to have primary responsibility for providing military assistance to state, territorial, and local governments.⁵ National Guard Commanders are responsible for training their forces for both their Federal and State missions. These strategic missions, as they apply to state and local support, include, but are not limited to:

- Contracting for supplies and services.
- Managing supply operations and movements.
- Preparing and distributing meals.
- Purifying, storing, and removing waste.
- Repairing vehicles and equipment.
- Removing debris.
- Providing power generation.
- Providing medical services.
- Providing communications capability.

The State Area Command (STARC) is a mobilization entity that has been established in each State. It organizes, trains, plans, and coordinates the mobilization of National Guard units for

State and/or Federal missions. The STARC is responsible for emergency planning and responses; it provides access to all the National Guard Resources within its jurisdiction.⁶ The STARC directs the deployment and the employment of National Guard units for domestic operations including military support to civil authorities.⁷ When the National Guard is activated in a nonfederal status, the governor serves as commander-in-chief of the National Guard in his state or territory and exercises command through the state adjutant general (TAG). While serving in state status, the National Guard strategy is to provide military support to civil authorities, including law enforcement, in accordance with state law. Federal equipment assigned to the National Guard may be used for emergency support on an incremental cost-reimbursement basis.⁸

A fundamental principle for strategically employing military resources is recognizing that civil authorities have a primary authority and responsibility for disaster assistance. The National Guard, in state active duty status, has primary responsibility for providing strategic military disaster assistance in its state.⁹ The National Guard provides strategic assistance in four areas: disaster assistance, environmental assistance, law enforcement support, and community assistance.

DISASTER ASSISTANCE OPERATIONS

Military disaster assistance operations to state, local, and municipal governments are structured into five stages of support: pre-disaster activities, assessment, response, follow-on forces, and restoration.

Pre-Disaster Activities.

Preparations for life-saving missions begin on notice of a possibility of a requirement for military support, to include pre-positioning of resources near the disaster area. The National Guard's structure and training in command and control, deployability, and sustainment operations offer ready and robust capabilities for disaster assistance support. Those skills that soldiers and leaders use day-to-day often are the types of skills required during disasters.

Assessment.

Assessment is a fundamental strategy for providing effective disaster assistance. The assessment process requires the integration and analysis of information from many different sources. Responsibility for assessments is shared by federal,

state, local, and military agencies. When a disaster occurs the damage and anticipated military support must be assessed before resources are committed. This ensures that the committed resources and forces will be appropriate for the mission and that they will be used efficiently.

Response Operations.

Response operations focus on the life-sustaining functions (i.e., food, water, shelter, medical, and power) required by the population in the disaster area. The National Guard has the strategic capability to rapidly deploy an initial response force with capabilities to provide the life-sustaining functions. Response is the most resource intensive of the stages. National Guard Engineers can and do provide the transportation to bring food and water, open roads, build life support centers (tent cities), and provide primary power for hospitals and emergency centers.

Follow-On Forces.

As the state and local effort escalates, additional military forces may be deployed to help in the disaster area to restore essential public services. These facilities include municipal

offices, hospitals, water treatment plants, ice manufacturing and storage plants, electrical power stations or lines, and telecommunications nodes. Sites for the emergency shelter, feeding, and medical treatment of displaced citizens must be identified and provided for.

Restoration.

Finally, the restoration stage is a long-term process of returning the community to its pre-disaster normalcy. Restoration is primarily a civilian responsibility. As a principal, the military does not compete with civilian commercial enterprises. As a commercial enterprise becomes more available in the community, the military's provision of support and services can diminish.

ENVIRONMENTAL ASSISTANCE

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Environmental assistance focuses on environmental management; it responds to contingencies that adversely affect the health and environment of a community. Environmental support is divided into three categories: short-term, mid-term, and longterm. Short-term support is considered 30 days or less. Midterm support is sustained for more than 30 days, but less than

180 days. Long-term support is required for situations that require more than 180 days. National Guard units in a state (nonfederalized) status continue their support until the community is operating normal again.¹⁰

The Army classifies environmental assistance into four categories: compliance, restoration, prevention, and conservation. These four areas are the pillars of the Army environmental strategy, which provides the means for attaining and sustaining environmental resources.¹¹

Compliance.

Compliance response includes support to clean up oil and hazardous material spills under the National Contingency Plan (NCP) and to control potential chemical pollution or contamination.¹² Natural disasters frequently cause oil spills or accidental releases of hazardous materials.

Restoration.

Environmental restoration missions often involve correcting contamination problems caused by past operations. Restoration efforts maximize the amount of property available for reuse and redevelopment. Also, the Army's environmental research and

development program has recently focused on prevention of pollution.

Prevention.

Prevention assistance missions focus primarily on participating in pollution prevention programs with other agencies. The Army and National Guard also share information and technologies that reduce the discharge of pollutants into the environment. Pollution prevention is an ethic that must be learned at all levels of an organization. Effective preventive measures will eventually eliminate restoration operations.

Conservation.

Conservation assistance missions seeks to preserve and protect America's natural and cultural resources for future generations.¹³ Using vast acreage, the Army National Guard and Army Reserve conduct intensive military training while providing many sanctuaries for a wide variety of plants and animals. They often work with state and federal agencies in managing soils, vegetation, fish, wildlife, and water resources. The Army, the National Guard, and the public all benefit from this strategy

because the protection of natural resources enhances the mission and preserves the environment for all.

LAW ENFORCEMENT ASSISTANCE

The National Guard's strategy during natural and man-made disasters, is to increase law enforcement efforts to prevent or stop looting and rioting, control traffic, and provide for general public safety.

Posse Comitatus Act of 1878.

Army law enforcement assistance to state, local, and municipal governments is limited by the Posse Comitatus Act of 1878.¹⁴ This Act was designed to prevent the use of federal military forces to enforce civil laws without the President declaring a state of emergency. It restates the intent of the Militia Act of 1792, which prohibited the use of the Regular Army to enforce laws. The framers of the Constitution, remembering the British occupation of the colonies from 1763 to 1775, realized the danger of large standing armies. Therefore, they wanted maintenance of only a small regular army which could be expanded by a large militia during war.

Interestingly, for such a historically significant piece of legislation, it is a relatively simple law. Section 1385 of Title 18, Crimes and Criminal Procedure, USC, simply states that the use of any part of the Army or Air Force as a Posse Comitatus shall result in a fine of not more than \$10,000 or imprisonment for not more than two years or both.¹⁵

There have been some very dramatic uses of the National Guard for domestic purposes during the last half of this century. Most, out of necessity, involved the employment of state militia in support of civil law enforcement. Within the provisions of Posse Comitatus, some operations involved the employment of federalized National Guard troops under conditions of national emergency. These strategic missions exemplify the various roles and authorities under which the Guard can be committed to duty. All are illustrative of the high profile and risks at stake when military force is applied to enforce civil law in a police role. National Guard forces operating in a state active duty status when responding to disasters and civil emergency do not fall under The Posse Comaitatus Act of 1878. The National Guard during such assistance efforts thus functions constitutionally to reinforce law enforcement agencies in the affected area.

CIVIL DISTURBANCE ASSISTANCE

Since humankind first began to hunt or tend crops, some degree of cooperation has been necessary. As communities continued to evolve, the degree of cooperation and tolerance grew commensurably greater. There has never been an association, federation, fellowship, fraternity, congregation, guild, league, union or club without a set of rules which governs relationships among its members. In modern society, this government requirement has resulted in a series of laws which govern the interaction of its members to peaceably resolve conflict.¹⁶

Resentment of American colonists towards British troops ran especially high in the years just prior to the American Revolutionary War. In March 1770 a riot occurred between British troops and citizens of Boston, who jeered and taunted the British soldiers and began throwing things at them during a demonstration. Five people were killed when troops fired. This incident became known as the "Boston Massacre" and farther heighten the tensions between the two groups.¹⁷

Perhaps the most famous act of civil disorder in American history occurred three years later on December 16, 1773. A group of Boston citizens protested the British tax on tea to the colonies by throwing a newly arrived shipment overboard. The

"Boston Tea Party" was a harbinger of troubles that eventually led to the American Revolutionary War.¹⁸

Historically, incidents of civil disorder have often erupted into violence. For three days during the Civil War (July 13 to July 16, 1863), mobs rioted in New York City to protest recently enacted legislation requiring mandatory military service. Rioters freely roamed the city looting, burning and terrorizing others, particularly blacks, whom the rioters felt were responsible for the war.¹⁹

The 1960s and 1970s were a turbulent period in American history as controversy over civil rights and an unpopular war in Vietnam periodically reached a fever pitch. Confrontations occurred throughout the United States, often resulting in large scale destruction, occasionally in death. Major riots occurred in Los Angeles, California, in 1965; Detroit, Michigan, in 1967; Chicago, Illinois, in 1968; Santa Barbara, California, in 1970; and East Los Angeles, California, in 1970 and 1971.²⁰

Violent rioting once again erupted across the country on April 19, 1992, when four police officers were acquitted after being accused of beating a black suspect. More recently, issues such as abortion, gay rights, immigration, and gun control have been highly controversial; emotions are high on all sides of

these issues.²¹ Any one of these could, under certain circumstances, trigger civil disorder.

During a riot, it does not take long for local police departments to be overwhelmed. When this happens the local government will call the governor of the state and ask for assistance. The governor in turn will task the National Guard to respond. As a state organization, the Army National Guard responds to the governor according to state law for civil disturbance operations. During most civil disturbance situations, the National Guard will be the first military responder and will usually remain in state active duty status throughout the operation.²²

Federalizing the National Guard.

Once federalized, the National Guard, like the Active Army, becomes bound by The Posse Comitatus Act and loses the ability to act as a law enforcement agency. If the National Guard is federalized then the civilian and military leadership must be aware that this action immediately deprives the state of vast law enforcement assets. It is quite proper for the National Guard leadership to make appropriate strategy recommendations to civilian decision makers on how best to employ the National Guard

during the fog of a civil disturbance. It is simple to say, after the fact, that it was not the correct decision to federalize the National Guard. The Adjutant General must be able to advise and educate the governor on what would be gained or lost from having the National Guard federalized. The most obvious loss is the governor's control of his/her National Guard to a federal force commander. The change will require additional layers in the command structure.²³

An important consideration that is often overlooked is the morale of the National Guard Member being federalized. To the individual soldier, the message is that the National Guard has somehow failed and must be shored-up by the regular army. The Los Angeles riots offer an example. "After law and order had been restored, Guardsmen heard that they had been federalized and active component soldiers and Marines were on their way to restore law and order. Feeling that their efforts were not recognized or appreciated, morale plummeted."²⁴

Ultimately, there is another negative message sent when federal troops are employed. The civilian leadership is essentially saying that the situation is lost; the last card now must be played. The local authorities have played their trump card and lost. Now the feds must come in to do the job.

COUNTERDRUG OPERATIONS

The Army National Guard supports law enforcement agencies in counterdrug operations, special security operations, and counter terrorism operations.²⁵ "Enhanced Drug Interdiction and Law Enforcement Role" granted by Congress to the National Guard commensurate with the National Defense Authorization Act of 1989 as codified by Title 10 U.S.C. 374 and 380, and specified in Public Law 100-456, (Section 1105) and 102 Stat. 1918 (102 Stat. 2047) has helped the Army in its counterdrug operations.²⁶

To qualify for funding in 1989, each state, territory, possession and District of Columbia was required to submit to the National Guard Bureau an operations strategy which detailed its proposed plan for military support initiatives for counterdrug operations in support of federal, state, and local law enforcement agencies.²⁷

The Act directed that their strategy focus on interdiction and eradication operations, including the use of surveillance by flight crews, aerial photography and other imagery, radar surveillance, and long-range reconnaissance patrols. Other efforts, such as vehicle and container search, and loan or lease

of equipment were also considered. Each state plan had to be approved by the Secretary of Defense.²⁸

Drug Support operations authorized for the National Guard under this Act fall into two categories: interdiction and eradication. Interdiction refers to support that involves detecting and monitoring the movement of illegal drugs, transporting confiscated goods, law enforcement personnel, and other National Guard Bureau and Department of Defense approved actions, to stop the flow of illegal drugs into the United States. Eradication refers to the support which involves identifying and maintaining surveillance of marijuana fields, transporting law enforcement personnel conducting anti-drug operations, and other approved actions which would eliminate the cultivation and distribution of marijuana in the United States.²⁹

Military support to the national counterdrug effort requires sustained deployment of appropriately trained and equipped members of the armed forces. Army National Guard forces execute these missions under the control of the Governor. Each state or territory has a National Guard counterdrug coordinator, who receives Law Enforcement Agency (LEA) requests for support and coordinates the execution of support as directed by the state adjutant general. Army National Guard counterdrug strategy is

conducted in accordance with state law and applicable National Guard regulations.³⁰

The National Guard Bureau has developed a basic set of rules of engagement to guide the actions of Guardsmen supporting drug enforcement operations. Prior to each drug enforcement mission, each guardsman and the law enforcement members with whom they would serve are provided understandable instructions on: the Guardsman's mission, safety, use of force, use of live ammunition, self-defense, defense of other Guardsman and law enforcement personnel, chain of evidence, arrest powers, and the chain of command. The orientation is designed to ensure that each Guardsman, the military chain of command, and the supported law enforcement agency have sufficient instructions to insure the safety of the civilian population, law officers and National Guard personnel. Mainly, they facilitate mission accomplishment.³¹

Antiterrorism Assistance.

Antiterrorism is the term encompassing defensive measures, to include limited response and containment of a terrorist incident involving DOD personnel and facilities. Antiterrorism includes means taken to prevent, deter, and respond to terrorism.

Assistance provided in antiterrorism is essentially a subset of civil disturbance operations.³² An example of such assistance was the support provided during the Summer Olympics in Atlanta.

COMMUNITY ASSISTANCE

Community assistance has become the Army's most frequent domestic support operation. Army resources are used to support civilian organizations to promote the community's general welfare. These missions and operations include public works, minor construction projects, education, and training.³³

Youth Opportunities Pilot Program.

In September 1992, Congress directed the National Guard Bureau through the Department of Defense to implement and test the conduct of a youth outreach program. Congress titled the program "The National Guard Civilian Youth Opportunities Pilot Program."³⁴

The Department of Defense tasked the National Guard to support public works programs. One of these programs is the Civilian Youth Opportunities Program (Challenge). This program's strategy is designed to enable at-risk students to attain a high

school diploma; it also provides job training and placement, while improving personal and social skills.³⁵

The intent of Congress was to determine if at-risk youth who have ceased attending secondary school could improve both life skills and employment potential. Military based training techniques are utilized, and the program also includes community service and conservation projects. Oversight and actual conduct of the program are provided by the National Guard.³⁶

The National Guard was selected by Congress to administer the Youth Programs for several reasons: Youth Outreach was consistent with the State Mission of the National Guard; consistent with the Guard's community role; the required infrastructure was in place; skilled, trained military personnel were available.³⁷

The Challenge program consists of a 22 week resident phase and a 12 month post-resident phase. During the resident phase, the student lives in a disciplined quasi-military environment 24 hours a day while completing an education program that focuses on development of the whole person. The resident phase curriculum is designed to achieve eight core objectives: Academic excellence (including GED and basic computer literacy); acquisition of job skills; improved physical fitness;

Leadership/Followship training; health, sex, and nutrition education; life-coping skills; responsible citizenship; and community service.

The first week of Resident Phase concentrates on initial evaluation of the student in the areas of health, education level, special needs and a general in-processing into the program. During this time the student is given The Adult Basic Education Test (TABE). This test provides a benchmark on current education level of the student. Test results are also used in placing the student into the correct academic peer group. A key component of the program is to provide the student academic instruction, with the goal of obtaining a General Education Degree (GED). Most Challenge Programs have state certified teachers on the staff who provide classroom instruction to students capable of obtaining a GED.

During the 22-week resident cycle, students are continually challenged to achieve positive results. For most students, this is the first time they have been exposed to discipline, standards, and routine. For the first time, they are held accountable for their actions. Continual interaction between role model Guard instructors and student provide supervision, coaching, goal setting, and feedback progress. At the completion

of the demanding 22-week course, students are awarded a Challenge graduation diploma. Some also have qualified to receive a GED certificate.

During the 12 month post-resident phase, the goal is for students to return to their communities, attend post-secondary education, or to enter the job market. To facilitate tracking students during this phase and to assist the student, a volunteer mentor is provided. The mentor can be a Guardsman, community leader, or an interested community citizen. There is no requirement for the mentor to be in the Guard. The mentor provides positive role modeling, coaching, and friendship. The mentor also provides feedback to the administering Guard Challenge Program Director concerning the youth's progress within the community.³⁸

Some Guard Challenge programs have reached out to the business community within their states. Businesses have the opportunity to interact with the students, perhaps to establish a relationship that will lead to future employment. The business community thus gains the advantage of a known quantity in a graduating student. Businesses are introduced to individuals who has demonstrated positive life skill's, drug free and on a positive life track.³⁹

RECOMMENDATIONS

A number of factors will likely impact on the Army's ability to respond to civil emergencies during the upcoming decade. First and foremost is the downsizing of the force and ever decreasing resources. In a smaller Army, fewer personnel are going to be available to accomplish planning and preparation for civil emergency contingencies.

What can be done to minimize these effects? First, the National Guard can undertake more missions and thus relieve the smaller Army of such tasks. The most important planning efforts for military disaster relief operations are conducted with state and local governmental staff. The National Guard with its strategy of a community oriented approach, could be the key for effective and productive planning for the appropriate use of military resources during domestic support operations.

Secondly, the National Guard is trained in both federal and state missions. The state missions discussed above can and should be handled by the Guard first. If the need arises for more equipment and manpower, then if would be appropriate to call in the Active component.

CONCLUSIONS

Each year in the United States literally hundreds of natural disasters occur. These events throw many organizations into the spot light. From the periphery of society to the center-stage, often the National Guard marches in. Many times the Guard is called upon to perform missions that they have never trained for and to carry out these missions under extraordinary circumstances. These missions provide enormous challenges; never the less, they are successfully handled by the National Guard. This study gives the big picture of the strategic roles that the National Guard has provided to Domestic Support Operations. Ιt illustrates the many and varied support capabilities that the National Guard provides in a state and federal role. During this volatile, uncertain, complex, and ambiguous time faced by the active Army, the National Guard has demonstrated the ability to assume an expanded role in support of state and national objectives particularly in Domestic Support Operations.

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