



**CONSTITUTIONAL BALANCE PROJECT:
NEW NONTRADITIONAL ROLES
FOR THE U.S. ARMED FORCES**

*A Report Prepared under an Interagency Agreement
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Library of Congress*

July 1993

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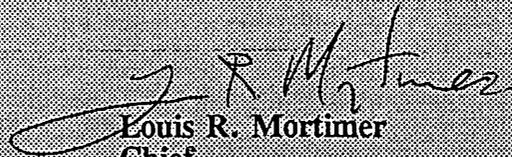
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PREFACE

This study was undertaken to support the basic construct of Annex P (Military Support to U.S. Civil Authorities) to the Joint Strategic Capabilities Plan (JSCP) of the Joint Staff. The study examines the objectives, regulations and limitations of the Civil-Military Cooperative Action Program (CMCAP), the nature of the constitutional relations between the U.S. military and federal and state authorities throughout American history, and the controversy over the potential impact of the CMCAP on civil-military relations and the military capability of the U.S. Armed Forces. The appendix provides a chronology of military operations in support of civil authorities throughout American history, indicating if any of these operations were outside the intended constitutional role of the U.S. Armed Forces.

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INTRODUCTION

In June 1992, Senator Sam Nunn, Chairman of the Senate Armed Services Committee, called for a major reexamination of the roles and missions of the United States Armed Forces, particularly in the domestic sector, where he proposed to expand military and civilian cooperative efforts in order to ameliorate critical domestic problem areas. This renewed focus on addressing domestic concerns in the continental United States (CONUS) has become one of the elements of the new U.S. military posture following the end of the Cold War. Senator Nunn's call resulted in the establishment of the Civil-Military Cooperative Action Program (CMCAP), Section 1081 of the National Defense Authorization Act for Fiscal Year 1993.¹

Section 1081 defines the scope of the program by requiring the Secretary of Defense to establish the CMCAP in order to "use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States."² Although it is a public law, no Congressional funds have been authorized or appropriated for this purpose; implementation of the program is to be achieved by utilizing existing Department of Defense (DoD) resources.

In July 1993, the Office of the Assistant Secretary of Defense, Force Management and Personnel (OASD/FM&P) was in the process of writing the DoD Instruction (DoDI) that establishes policy, assigns responsibilities, and prescribes procedures for managing DoD support in the area of civil-military cooperative

programs. Specifically, this office serves as "liaison with Congress; coordinate[s] all programs to avoid duplication; insure[s] implementing instructions and program guidance are legally defensible; monitor[s] program implementation and operation; insure[s] objective program evaluation; and coordinate[s] all reports and testimony on these programs from DoD to Congress."³

The following sections discuss the objectives, regulations and limitations of the CMCAP, the nature of the constitutional relations between the U.S. military and federal and state authorities, and the controversy over the potential impact of the CMCAP on civil-military relations and the military capability of the U.S. Armed Forces.

THE CIVIL-MILITARY COOPERATIVE ACTION PROGRAM

The U.S. is confronting the urgent task of rebuilding problem areas in its social and physical infrastructure. The CMCAC represents the Congressional view that the military should play a new social activist role in assisting state and local governments in solving some of their problems.

Objectives

Section 1081 lists six objectives for the CMCAP. The objectives call for a new social activist role for the military by means of "meaningful community involvement"; using civil-military cooperation to address "areas of domestic need"; promoting "equal opportunity" and improving racial and ethnic group relations; contributing to the civilian economy "through

education, training, and transfer of technological advances"; improving "the environment and economic and social conditions"; and providing "opportunities for disadvantaged citizens."⁴

According to Senator Nunn, DoD and the military departments would have "broad discretion to manage the program in a manner consistent with their military missions, who would in turn grant flexibility to local commanders in the implementation of the program. Every base will be different - different missions, different talents, different capabilities, different geographic areas. There won't be one model for the country."⁵

In Senator Nunn's view, the armed forces would assist civilian authorities in addressing domestic problems by serving as role models; assisting in rehabilitating and repairing schools, public housing, recreational facilities, roads, and bridges in areas that lack government funds or involvement by the private sector; developing summer programs for disadvantaged youth; providing job training and education in the inner cities; assisting in medical transportation; providing public health outreach programs in underserved areas; and providing mechanisms to alleviate the problem of malnutrition.⁶

Regulations and Limitations

The CMCAP is governed by three principles. First, the project undertaken must be "consistent with the military mission of the unit in question."⁷ Specifically, the project must contribute to a unit's military training and in some cases, field training, or readiness, while at the same time performing a

service for society.

Second, a project must serve "a need that is not otherwise being met, and should not compete with the private sector or with services provided by other government agencies."⁸ Furthermore, a project cannot selectively benefit a particular individual or group, but must benefit the community at large.

Third, the program cannot be used to justify "additional overall defense expenditures or for retaining excess military personnel. Projects should be undertaken only with personnel, resources, and facilities that exist for legitimate military purposes."⁹ Thus, the cost of CMCAP's various projects cannot exceed DoD's allocated budget. DoD is therefore directed to "minimize expense."

Fourth, the program calls for the establishment of advisory councils on civil-military cooperation at the regional, state, and local levels. Recommendations for "projects and activities" will be forwarded to the advisory councils, which will consist of representatives of the military, federal, state, and local agencies, as well as civic and social action groups, business and labor organizations.

Finally, although the term "armed forces" is not clearly specified in the language of Section 1081, it also applies to the National Guard.

CONSTITUTIONAL RELATIONS BETWEEN THE DOMESTIC ROLE OF U.S. ARMED FORCES AND FUNCTIONS OF FEDERAL AND STATE CIVIL AUTHORITIES

Since the signing of the Declaration of Independence, the

U.S. has been governed by a consensus, embodied in the Constitution's balance of powers doctrine, that the armed forces must never assume the responsibilities of civil government, whether federal, state, or local. Throughout the history of the American republic, members of the armed forces have therefore taken the oath "to preserve, protect and defend" the Constitution against all foreign and domestic enemies. The armed forces thus "ultimately derive their legitimacy from this overarching frame of government...."¹⁰

In this civil-military relationship based on checks and balances, both civilians and the military recognize that upsetting this relationship risks abusing governmental power and impairing the military capability of the armed forces.¹¹ The opportunities for such risks have been minimized by "placing the armed forces under firm civilian control and by imposing legal restrictions on civilian use"¹² of the military. However, throughout U.S. history the armed forces have been deployed as the "resource of last resort"¹³ during periods of domestic upheaval, natural disasters, or other threats to the nation.

Throughout American history, there has always been civilian control of the military. Under the Constitution, authority over the military is shared by the independent branches of government. The final authority for the military's "existence, size, and character"¹⁴ rests with Congress, with the legislative branch also given authority to "raise and support armies and navies and the continuing determination as to how they would be organized

and funded."¹⁵ The President has the power to directly command the armed forces as Commander in Chief; his powers include the powers of appointment and making war.¹⁶ Thus, during times of peace and war the governance of the military and the power of making war are "divided and shared" between the President and Congress.¹⁷ However, the role of the judicial branch was never clearly stated by the framers of the Constitution, who limited themselves to empowering Congress "To make Rules for the Government and Regulation of the land and naval Forces."¹⁸ The federal judiciary was thus given a minor role in military affairs throughout American history, except for certain instances.¹⁹ Nevertheless, the American military, with rare exception, has "always operated under [the] law"²⁰ and adhered closely, both internally and in times of war, to the legal process. Events in American history have demonstrated over the years, however, that this system of "shared and overlapping power has been dynamic and full of inherent tensions, and on occasion has pushed the control of military power to the very center stage of national affairs."²¹

On the issue of the relationship between the armed forces and federal and state authorities, the active components of the armed services are considered federal bodies. A compromise was reached in the Constitution to let a militia (in later years known as the National Guard) remain under state jurisdiction, with the standing Army, later including the Air Force, remaining under federal control. The Navy is considered extraterritorial

in nature. States therefore exercise no authority over the active military services, and the federal military plays no role in state affairs. When the military is deployed on the state and local levels for disaster relief operations and law enforcement, such deployment is authorized only under extreme circumstances (such as a breakdown in law and order or insurrection, which are covered in Chapter 15 of Title 10, United States Code Armed Forces) when "state resources are insufficient" and a governor requests federal assistance.²²

In the U.S., the framework or outline for the use of the military by civilian authorities is provided by the Posse Comitatus Act (literally, the "power of the county"; in general, a force with legal authority). According to this act, which Congress passed in 1878, "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both."²³

The Posse Comitatus Act is not clear on the status of the National Guard, the Civil Air Patrol, members of the various reserve services, and civilian employees of the military.²⁴ Nevertheless, the act's restrictions probably apply to these groups when their activities are part of, or under the direction or approval of, those who come under the act.²⁵

The purpose of the military, according to the Preamble to

the Constitution, is to "provide for the common defense,"²⁶ which is translated as deterrence and fighting wars, and it is prohibited from engaging in law enforcement. Nevertheless, the Posse Comitatus Act did not completely end the military's involvement in law enforcement because of the act's limited application in two areas. First, the President is empowered to use the military to "enforce the law in times of national crisis or emergency."²⁷ Second, whereas judicial courts have ruled that the Posse Comitatus Act applies to the military's "direct" participation in law enforcement, the military has not been proscribed from "indirect" or "passive" participation.²⁸

In modern times, the issue of military involvement in civilian law enforcement is covered in Chapter 18 of Title 10. In other cases, legal authority is necessary for any involvement by the armed services in civilian affairs. For example, legal authority has been obtained for the armed forces every four years to support the activities of the Presidential Inaugural Committee, which is a nongovernmental private body.

Above all, Title 10 recognizes that the "military preparedness" of the armed forces must not be adversely affected by any assistance in the domestic arena provided by the military to civilian authorities.²⁹

IMPACT ON THE MILITARY'S CONSTITUTIONAL ROLE OF "PROVIDING FOR THE COMMON DEFENSE"

A number of assumptions have been propounded either in support of or in opposition to the CMCAP's potential impact on

the constitutional relationship between the military and federal, state, and local authorities.

The Case For Nontraditional Roles

First, proponents argue that the legislation authorizing the CMCAP is carefully phrased so as to prevent imbalancing the constitutional relationship between the military and federal, state, and local authorities. Sufficient safeguards are in place, such as the establishment of advisory councils consisting of representatives from military and civilian agencies, as well as nongovernmental organizations, at the regional, state, and local levels; the provision that the program must benefit the "community at large" and not a "particular individual or group"; the requirement that it must not replace the private sector or "services provided by other government agencies"; and that the program must not be used as a justification to create a larger military force. Furthermore, no Congressional funds are appropriated for the program, so DoD's efforts are voluntary in nature.

Second, supporters point out that the CMCAP does not represent a new departure because it merely recognizes in federal law military outreach programs on the local level that already exist (see Appendix, Selected Chronology of Military Operations in Support of Civil Authorities). Furthermore, commanders of military bases in the CONUS have always had good relations with their local communities. The only departure is the provision for oversight that the CMCAP places over DoD activities in this area.

Third, the CMCAP represents little change from recent trends in which DoD is being directed to assume an increasing number of nontraditional military responsibilities in the CONUS. In FY 1993, for example, DoD was allocated about \$1.3 billion annually to battle narcotics trafficking.³⁰ More than \$1.5 billion annually has been allocated to DoD to undertake environmental cleanup activities at defense installations, with additional funds provided to clean up bases that are being closed.³¹ In 1991, Congress provided DoD an initial \$200 million for a Strategic Environmental Research and Development Program (SERDP).³²

Fourth, the CMCAP also complements the defense conversion/readjustment programs appropriated to DoD for job training and community economic adjustment assistance for workers and communities affected by defense cutbacks.

Fifth, proponents argue that the CMCAP reflects U.S. public opinion that with a diminished likelihood of U.S. military involvement in overseas conflicts following the end of the Cold War, greater attention and resources must be devoted to solving domestic problem areas in the CONUS.

Sixth, advocates point out that members of the armed forces will "feel good" about themselves following their participation in the program. In addition, with an increasingly smaller proportion of the general population serving in the military, such a program will increase the ties between members of the military and local communities, thus enhancing the military's

prestige in the country.

Thus, proponents argue that the CMCAP poses no potential constitutional conflicts for military involvement in domestic civic action programs. This is backed by a recent study by two officers at the U.S. Army War College, which finds "no insurmountable legal roadblocks"³³ to increased nontraditional involvement by the Army in domestic assistance.

The Case Against Nontraditional Roles

Opponents of the CMCAP charge that the program threatens civil-military relations in a number of constitutional areas.

First, despite some safeguards, Section 1081 has no real statutory limitation, and there might be considerable leniency in its implementation. It therefore opens up an immense "Pandora's box" of potential constitutional and legal problems.

Second, the CMCAP might be overwhelmed by pressures from state and local authorities, or individual members of Congress, requesting that the military carry out public works projects in their communities that are not "military-related" or do not involve "quasi-military situations." These might be projects for which local communities cannot obtain funding or other resources to implement on their own, or programs of legally questionable justification. For example, when state authorities are unable to obtain Federal Aviation Agency (FAA) approval for upgrading airport runways or facilities, they might request local military forces, such as the Army Corps of Engineers, to perform such work.

Third, a further constitutional hazard is that the CMCAP may tempt state authorities to federalize military forces in their areas, particularly the National Guard, in order to solve some of their own immediate problems, such as the war on drugs. Such action would erode the Posse Comitatus Act, which prohibits military involvement in law enforcement.

Fourth, the military might be assuming missions that are in the normal course assigned to the civilian sector.³⁴ It might therefore hamper efforts by the civilian sector to develop new programs to alleviate domestic problems, duplicate programs that already exist, or take jobs away from civilians who might normally perform those tasks. According to the Heritage Foundation, "Were the military so directed, it would become chiefly a Band-Aid, removing pressure from politicians and other leaders to address the root causes of 'society's' problems. Moreover, a dependency would develop in which the military functioned as just one more government program; in the case of engineering and construction, troops might actually take jobs from civilians who need them."³⁵ The military may find itself competing for increasingly scarce funds with civilian governmental agencies on the federal, state, and local levels, making it difficult for the military to respond adequately to domestic problems.³⁶ Furthermore, unlike specialized civilian agencies, the military may not possess the necessary background or expertise to administer these programs effectively. Opponents therefore believe that civilian agencies should be mobilized for

these tasks.

Fifth, extensive involvement by the military in civil affairs may result in breaking down civil-military relations. For example, in a worst-case scenario situation, ambitious military officers may as a result make domestic policy in certain areas after extensive involvement with their CMCAP projects. Although his conclusions are greatly exaggerated, in his article on "The Origins of the American Military Coup of 2012," Lieutenant Colonel Charles Dunlap warns that the trend in 1992 toward the extensive diversion of military forces to civilian uses (and the insularity of the military community) may lead to a coup d'état in 2012.³⁷

Sixth, opponents are concerned that once the military becomes involved in domestic programs, removing it from future involvement in civilian affairs will be increasingly difficult. Doug Bandow, of the libertarian Cato Institute, opposes the handing over of "civilian duties to the military" and turning the military into a "domestic Peace Corps," because he believes this would perpetuate the Pentagon's "bureaucratic imperative" to maintain its programs."³⁸

Seventh, although the CMCAP contains safeguards against increased funding or personnel for the military, critics charge that military support for the program indicates the military's hope that new noncombat missions will serve to maintain a high level of military spending and force levels during a period of cutbacks in many government programs.³⁹

Eighth, the balance of power between state and federal governments may be eroded as a result of extensive military involvement in domestic civil programs. One consequence of expanding the military's role as envisioned in the CMCAP may be to increase the centralized power of the federal government at the expense of the states, which have "primary responsibility for the health, safety, and welfare of their citizens."⁴⁰

Opponents therefore believe that the CMCAP has the potential to lead to situations that are antithetical to the constitutional separation of the military from the civilian sector.

IMPACT ON MILITARY CAPABILITY

A second area of controversy over the CMCAP is its potential impact on the U.S. Armed Forces military capability.

The Case for Nontraditional Roles

First, as expounded by Senator Nunn, the use of members of the Armed Forces to assist in alleviating domestic needs is compatible with maintaining the "primary mission" of the military, which is training for the "military mission." Thus, he believes that such community service projects will not detract from carrying out "routine training," or building morale and unit cohesion.⁴¹ Finally, he believes that this program represents a means to "re-invigorate the military's spectrum of capabilities...."⁴²

Second, the CMCAP contains sufficient safeguards to ensure that military preparedness is not eroded. In particular, there is a requirement that projects undertaken will be "consistent

with the military mission" of a unit involved in the program.

Third, proponents of the program view the military skills of the armed forces as transferable in solving domestic problems, particularly after their success in the Gulf War and in humanitarian relief operations such as those for the victims of Hurricane Andrew.⁴³ The military is also viewed as a more capable manager of disaster relief efforts than civilian agencies such as the Federal Emergency Management Agency (FEMA), which has recently come under intense criticism for its handling of national emergencies, particularly disaster relief operations. Congress is currently considering a motion to transfer FEMA to the Department of Defense; others favor FEMA's abolition or its transfer to the White House as a smaller organization, with the military given operational responsibility for preparing for major disasters.⁴⁴

Fourth, CMCAP will provide a number of ancillary benefits to the military, particularly in the areas of military training and cost effectiveness. For example, medical training exercises generally use simulated battle casualties, but under this program medical care would be provided to patients with real traumas, and field hospitals would be set up in underserved communities. CMCAP would thus provide armed forces medical personnel with quasi-military training, which is less expensive when carried out in the CONUS than overseas, and at the same time help local communities.

Fifth, similar types of CMCAP projects have a long-standing

history of involvement by the military services, with no adverse impact on military preparedness. They will also be limited in scope, so the military's combat preparedness will not be affected.

Sixth, supporters of the CMCAP point out that it complements the revised doctrines for new roles and missions for the armed forces, which the various services are currently formulating to prepare for the post-Cold War security environment. For example, in June 1993 the Army adopted a new doctrine, FM (Field Manual) 100-5 Operations, that recognizes that as a result of troop and budget cutbacks, the Army will have to become more versatile, mobile, and reliant on other services in the future. Although the manual focuses primarily on combat operations, it places more emphasis than did previous versions on noncombat missions such as disaster relief, humanitarian aid, and peacekeeping, and devotes an entire chapter to these topics. The manual refers to noncombat missions as "Operations Other Than War."⁴⁵

Seventh, while the armed forces mission of providing nation-building assistance is intended to be carried out in foreign countries, proponents of the CMCAP see little reason why similar operations cannot also be conducted domestically.⁴⁶ They believe that such peacetime missions will provide the military with the necessary training to accomplish wartime missions, with the exception of "basic soldier survival skills."⁴⁷

These are some of the underlying assumptions that led Senator Nunn to propose that in the future there will "be a much

greater opportunity than in the past to use military assets and training to assist civilian efforts in critical domestic needs."⁴⁸ Nevertheless, Senator Nunn cautioned that "we must still maintain a strong, and perhaps, even more flexible military force."⁴⁹

The Case Against Nontraditional Roles

First, opponents of the CMCAP believe that the armed forces military capability will be damaged because the program is being introduced as an added mission for the military during a period when the defense budget and basic force levels are being reduced. According to the Heritage Foundation, "Such an application of military resources would distract the services from their primary function - national defense - at a time when their resources are being sharply reduced. It is difficult enough today to field an effective force without requiring it to assume additional and unnecessary tasks."⁵⁰

Second, the CMCAP-type projects will distract the military from its primary mission of fighting wars. According to Frank J. Sullivan, a former Congressional staff director, "More and more of the declining defense budget is being siphoned off for things other than military capability."⁵¹ He criticizes the "growing variety of civilian programs" that are "being funded out of the defense budget...",⁵² and concludes that "there is a likelihood that military capability will pay a disproportionate and unintended part of the bill."⁵³

This view is shared by Samuel Huntington, a Harvard

political scientist, who considers the proposal to be "basically misconceived." He writes, "The mission of the American armed forces is to combat, to deter, and to defeat the enemies of the United States. The American military should be recruited, organized, trained, and equipped solely for that task. Military forces should, where appropriate, be used in humanitarian and other civilian activities, but they should not be organized or trained to perform such functions. The core purpose of a military force is fundamentally anti-humanitarian: it is to kill people in the most efficient way possible. It is only for that and related purposes that this country and other countries maintain military forces."⁵⁴ Huntington concludes that while the military has performed nontraditional functions throughout American history, these functions must not define the military's mission. Rather, they "should be spill-over functions which the military is capable of providing because they have been well-organized, trained, and equipped to perform their military functions of defending this country against its enemies."⁵⁵

Third, CMCAP-type projects might impair military training and preparedness. These projects, according to Bandow, would negatively impact on the inculcation and maintenance of the military's "unique attitudes and skills."⁵⁶ He adds, "For combat engineers, there is a difference between building bridges in the forest and repairing homes in the city."⁵⁷ He therefore advocates deploying the private sector to "address social problems more directly, without impairing the armed forces'

integrity."⁵⁸

Fourth, the CMCAP might impair DoD's future budgetary requests for military matériel and military preparedness. For example, in a worst case scenario, with programs such as the CMCAP acquiring greater prominence, Congress might appropriate more and more funds for equipment that has civilian as opposed to military applications (e.g., funding additional bulldozers instead of tanks and helicopters instead of fighter aircraft).

Congress is criticized by opponents of the CMCAP for "micro-manag[ing] defense" by its practice of "routinely divert[ing] defense resources to non-defense areas" and using "defense personnel as social workers."⁵⁹ Critics also maintain that domestic programs should not be included in the defense budget.

Opponents therefore argue that the CMCAP would impair the military's "combat culture," combat training, and deterrence capability. According to a recent study on the military's role in humanitarian and disaster relief (HDR) operations, extensive HDR missions detract from training troops in the military's "combat culture," and, as well, affect "personnel evaluations and career progression"; these missions degrade combat training by deploying troops in a "benign HDR environment" as well as reducing time allotted to training in combat fighting; and extensive participation in HDR missions transforms the way the U.S. military's combat capability is perceived.⁶⁰

CONCLUSION

The Civil-Military Cooperative Action Program has the

potential to provide considerable assistance to civilian authorities in tackling some of the critical problem areas in American society. To ensure success, the most constructive programs should be fairly limited in scope and carefully planned so as not to overburden any units involved. Adequate safeguards and limitations should be built into the program to prevent opening a "Pandora's box" of unforeseen problems and complications. A tight rein must be maintained on each new program by the advisory councils at all levels, with continual review by the proper military and civilian authorities.

In its implementation the program must ensure that military units will not compete with or replace comparable assistance that can be provided by civilian agencies, whether governmental or private. For example, under the multiservice Military Assistance to Safety and Traffic (MAST) program federal law prohibits the military from competing for emergency medical evacuation missions in areas where civilian operators can provide comparable support.⁶¹ Similarly, on the state and local levels, the military should not replace government agencies such as the departments of Health and Human Services, Housing and Urban Development, Education, Labor, and Justice in fulfilling their constitutional tasks.

Above all, these programs must alleviate critics' concern that training funds will be expended on socially oriented programs that do not benefit military training or combat readiness. U.S. forces must never find themselves incapable of

performing in a combat environment because of inadequate training. Military culture must therefore place primary emphasis on combat readiness, with only secondary focus on the nontraditional missions embodied in the CMCAP.

Throughout American history the armed forces have often engaged in off-duty, voluntary social and educational programs that benefit local communities. In the CONUS, they have been extensively deployed in humanitarian and disaster relief operations as well as counternarcotics missions. The argument advanced by supporters of the CMCAP that the "primary obstacle" that needs to be overcome for greater military involvement in these programs is "the reluctance to break old paradigms"⁶² has to be weighed against other considerations. First, military officers always have preferred to confront foreign enemies as opposed to domestic ones. Second, the professional soldier tends to prefer national defense over internal peacekeeping. Therefore, these programs should never be carried out independently of military activity merely to use training funds, or to "look good."

In the final analysis, the decision in favor of military intervention either internally or externally is a political act, which under the Constitution is the prerogative of civilian leaders, with the military obeying the orders of the commander in chief. Only by weighing the potential benefits against the potential problems can the U.S. be assured of the judicious implementation of this type of nontraditional military activity.

APPENDIX

Selected Chronology of Military Operations in Support of Civil Authorities

Nineteenth Century

The army participated in the economic and political development of newly acquired territories by exploring, surveying, and mapping the West, choosing sites for forts and settlements, planning settlements, building roads, waterways, and bridges. These functions were later taken over by the Weather Bureau and the Geological Survey.⁶³ The Army provided administrative services and mechanisms to enforce civil law in the newly organized territories. During the interim period leading to the territories' admission to statehood, Army officers served as governors, judges, law enforcement personnel, and administrators.⁶⁴

1804

Captain Merriwether Lewis and Lieutenant William Clark were dispatched by President Thomas Jefferson on an expedition to survey the Louisiana Purchase, thus paving the way for westward expansion to the Pacific.

1818

The Corps of Engineers constructed the Cumberland Road (the National Road).

1842

Lieutenant John C. Fremont of the Corps of Topographic Engineers was assigned to lead an expedition to map the Platte River to enable pioneers to extend the Oregon Trail.

1857

In the Utah Expedition of 1857, Colonel Albert Sidney Johnston led a military force of 2,500 troops to Utah Territory to overcome Mormon defiance of federal law and of court orders prohibiting slavery.

1867 - June 1877

The Army administered Alaska following its purchase from Russia, until the territory was turned over to the Department of the Treasury.

1871

The military provided relief operations during the outbreak of the Chicago fire.

1875 - 1925

Military forces, particularly state militias, were often deployed to maintain law and order in cases of violent industrial strikes.⁶⁵

1899

In the most serious breakdown in civil-military relations, Army Brigadier General Henry C. Merriam permitted his troops to be used by the state of Idaho when they intervened in the Coeur d'Alene miners' strike and arrested civilians in the area during the imposition of state-mandated martial law. The constitutional rights of civilians in the area were abrogated because their trade union was destroyed, thereby also violating the Posse Comitatus Act.⁶⁶

Twentieth Century

1900

Legislation was enacted by Congress to exempt Alaska from the Posse Comitatus Act because of the chaos generated by the Alaskan "gold rush." The exemption was repealed in 1959.⁶⁷

1914

President Woodrow Wilson deployed Army regulars to the Colorado coal region following an incident in which the National Guard had overreacted to labor strife there.

1917-1920

During President Wilson's administration, the Army was deployed to quell civil disorders, especially labor strikes, with little supervision by the President or the War Department. During this period, the Army General Staff's newly created Military Intelligence Division (MID) engaged in the "surveillance, harassment, and arrest of labor radicals."⁶⁸

1933

The Army supervised the efforts of the Civilian Conservation Corps (CCC), which was established to provide jobs to unemployed young men in projects such as reforestation and land reclamation. The military was also used to operate some CCC camps and provide training assistance. The program ended in July 1943.

Under Section 376, National Guard medical units were sent to

Arkansas, where they set up a field hospital and provided medical services to civilians.

1945

The Air Force scouting program was established in cooperation with scouting organizations, to enable scouts to learn about aviation. In 1963 the Boy Scouts and Cub Scouts joined the program, and in 1974 the Girl Scouts and Camp Fire Girls (later Camp Fire, Inc.), were also included in the program.

1957

President Eisenhower brought the Arkansas National Guard under federal jurisdiction to maintain order during the Little Rock crisis over school desegregation.

March 1964

Air Force, Army, and Navy units provided assistance following the March 24 earthquake in south central Alaska.

Mid-1960s

The deployment of the armed forces and the National Guard was required to restore law and order when riots over race relations broke out in inner cities, especially Detroit, Los Angeles, Chicago, and Washington, D.C.

1966

The military provided relief assistance in extinguishing forest fires in Alaska.

1967

The armed forces provided assistance in the wake of massive flooding in Fairbanks, Alaska.

1969

The Department of Defense (DoD) Domestic Action Program (DAP) was established. Under the program, each armed service provided social programs to the disadvantaged on a voluntary basis.

1970

The Military Assistance and Safety to Traffic (MAST) multiservice program was initiated at Ft. Sam Houston, Texas. The federally established program provides military air ambulance and helicopter evacuation services in civilian emergencies.

Following a nationwide postal strike in March, active and reserve armed forces troops, as well as members of the New York State National Guard, were deployed as part of a national emergency to sort and deliver mail.

In May, 1,395 members of the Ohio National Guard were deployed during an anti-Vietnam War demonstration at Kent State.

1971

In May regular army troops were deployed to assist District of Columbia police in controlling a large-scale demonstration protesting the Vietnam War, although no disorders broke out.

1973

The DAP was redesignated as the Defense Community Service Program. The program coordinated individual, unit, service, or DoD activities to assist governmental agencies at all levels in addressing social and economic problems.

In the course of an uprising by native Americans at the hamlet of Wounded Knee, South Dakota, the Army, at the request of the Federal Bureau of Investigation, provided armored personnel carriers, and the Nebraska Air National Guard assisted with reconnaissance flights.⁶⁹

1975

A Domestic Action Program was authorized by Army Regulation 28-19. It authorized "use of Department of the Army human and physical resources to assist and support the continued improvement and development of society."⁷⁰ In 1988 the program faded as its regulation was rescinded.

1983

The National Guard was first called on by several states to assist local law enforcement agencies with transportation and equipment in the battle against drug interdiction.

Congress appropriated \$9 million to DoD for a new program to make under-used military facilities available as shelters for the homeless. Ten target cities, where DoD buildings have sufficient amounts of floor space for such purposes, were established by DoD to provide shelter.

1985

The Navy established the Personal Excellence Partnership Program to assist youth. Navy volunteers provided tutoring and coaching, organized health and science fairs, environmental and

other community projects.

1986

Congress expanded the military's role in drug interdiction by authorizing the Legal Detachment (LEDET) program, which assigned Coast Guard personnel to Navy vessels to enforce drug laws in international waters.⁷¹

1987

In December, DoD published a set of guidelines for a program to shelter homeless persons on military installations; however, on-base shelters are prohibited when they "interfere with military preparedness or ongoing military functions."⁷²

1988

In the fall, a program was established for Army and Navy psychiatrists from Walter Reed Army Medical Center and Bethesda Naval Hospital to treat patients at civilian homeless shelters.

1989

DoD was directed by the National Defense Authorization Act of 1989 to become the "lead agency for detection and monitoring of air and sea drug trafficking across [U.S.] borders."⁷³ The act also directed that state governors enhance the use of the National Guard in support of these efforts. Civilian agencies remained responsible for law enforcement powers such as arrests.

The Pentagon lent the services of ten military lawyers to assist the Office of the U.S. Attorney in the District of Columbia in prosecuting felony drug cases that were overwhelming the court system.

In April, more than 1,000 military personnel assisted in the cleanup following the Exxon Valdez oil spill in Prince William Sound, Alaska. The military "provided airlift, command and control, communications, equipment, landing craft for ship-to-shore operations, medical support, oil skimmers, and ships for berthing civilian workers."⁷⁴

In September, 1,263 active Army troops were sent to St. Croix in the Virgin Islands in the aftermath of Hurricane Hugo to restore law and order in the wake of looting and to reestablish public confidence in the local government.

In October, the Army, the National Guard, and the Corps of Engineers provided assistance in the wake of the Loma Prieta earthquake in northern California.

1991

In September, Congress authorized the detailing of DoD personnel to assist the Immigration and Naturalization Service (INS) and the Customs Service in performing border protection and patrol functions.

In November, the House of Representatives authorized DoD to detail members of the armed forces for duty as advisers and instructors at correctional facilities of states and local governments operated as military-style boot camps. Excess defense property, including military installations being closed or realigned, would be transferred to states and local governments for use as such boot camps.

1992

Congress appropriated \$5.2 million for antidrug efforts by the Air and Army National Guards, with a portion of the funding earmarked for guard-sponsored community programs that work with youths to stop drug use.

Following the April 29 riots in Los Angeles, some 10,000 National Guard members, 1,500 Marines from Camp Pendleton, and 1,767 Army personnel were deployed as part of Joint Task Force, Los Angeles (JTFLA).

In August, the Junior Reserve Officers Training Corps (JROTC) program, part of the Youth Skills Initiative, was expanded from 1,600 to 3,500 schools.

In August, a joint task force of more than 23,000 troops from the Army, the Air Force, the Navy, the Marine Corps, Special Operations Forces, the Corps of Engineers, and 6,400 National Guard members carried out humanitarian and disaster relief operations in the aftermath of Hurricane Andrew in south Florida and Louisiana.

In September the armed forces were deployed to carry out relief efforts in the hurricane-ravaged island of Kauai, Hawaii.

In October the Marine Corps announced it would train deputies at the Cook County Sheriff's Office in disciplining nonviolent 17- to 25-year-old offenders in a military-style boot camp.

1993

The Civilian Community Corps (CCC) was established by Section 1092 of the National Defense Authorization Act for FY 1993.

Operation Guardcare, a pilot program to use National Guard personnel in medically underserved communities, was established by Section 376 of the Defense Authorization Act for FY 1993.

In March Army medical personnel from San Antonio, Texas, announced a plan to provide limited health services to civilians living in a largely rural county, as part of their training operations.

The Army and Air National Guard Youth Programs were established in June by the FY 1993 Defense Authorization and Appropriations Acts. The National Guard Bureau and state governors were to enter into agreements to conduct programs targeted at youth. Five state-specific programs were established: Starbase (\$2.2 million), Civilian Youth Opportunities Program (ChalleNGe) (\$44 million), Youth Conservation Corps and Urban Youth Corps (\$3 million), and the Los Angeles Unified School District (LAUSD) Outreach Program (\$10 million).

In June the Air Force and Bexar County, Texas, established a pilot rehabilitation project involving an intensive six-week military basic training for juvenile delinquents faced with sentencing to a detention center.

Endnotes

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34. America's Defense Monitor, "New Civilian Tasks for the Military," [transcript of television documentary], Center for Defense Information, April 11, 1993, 6.
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