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## Domestic Operations: The Canadian Approach

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The application of military force by a democratic government within the confines of its borders, and in some cases against its citizenry, has long been a controversial and politically sensitive topic. Though that is not a new type of operation for either the American or the Canadian military establishments, the nature of the threats each is being asked to confront has evolved. The threats now include (in addition to natural disasters and minor urban unrest) cult groups armed with weapons of mass destruction, agents of narco-parastates in Latin and South America, organized and armed urban unrest, and the violent potential of private paramilitary groups. It is safe to assert that threats to North American domestic security will increase in nature, scope, and number in the next century. This in turn will presumably prompt more debate on and calls for an increase in the military's role in containing and neutralizing those threats.

Military commentators, observers, and policymakers in both nations can perhaps learn from one another how democratic and culturally similar nations prepare for and respond to domestic situations requiring military force. The United States' closest ally and trading partner, Canada, has in the past 30 years undertaken several sensitive domestic operations. Canada has forged effective intragovernment legal and command mechanisms to conduct such operations effectively with its small but well-trained military. The purpose of this article is to explain what these mechanisms are, how they have evolved, and how they have been employed by the Canadian government.

Though structured primarily to support and implement government policy overseas and to protect Canada from external threats, the Canadian Forces provide the battlefield attributes of coordination, communications, mobility, organization, discipline, and force which the civil power does not possess in abundance, if at all. The role of Canadian Forces in support of civil government is reflected in the four largest domestic operations conducted in Canada: The FLQ Crisis (1963-1970); security operations during the 1976 Olympic Games; the Oka Standoff (1990); and disaster relief operations in Manitoba (1997). They must, however, be examined in the context of the evolution of policies and procedures for such operations.

### Legal Basis for Domestic Operations to 1988

The legal basis for Canadian Forces operations is derivative of the legal mechanisms by which Canada is governed generally. Canada is a constitutional monarchy; Queen Elizabeth II is the Queen of Canada as well as of England. As Canada gained more and more political independence, the Canadian Prime Minister, Canada's leader and highest elected official, progressively influenced the selection of the Governor General, the Queen's representative in Canada. Now the Prime Minister, as a courtesy, forwards the name of the new Governor General to the Queen, who automatically accepts the appointment.[1]

All government activity is done in the Queen's name and is conducted through a variety of venues. In ceremonial and legal terms, the Governor General signs all laws and bills generated by Parliament and Orders in Council generated by the Cabinet. In defense matters, the legal basis for the Department of National Defence and for the Canadian Forces is the National Defence Act, first created in 1922 and modified subsequently.[2] Under the terms of the Act, the Prime Minister selects a Minister of National Defence from those elected officials who comprise his Cabinet. The Minister is responsible for "the management and direction of the Canadian Forces," for construction and maintenance of defense establishments, and for defense research.[3] The Department of National Defence (DND) is the civilian bureaucracy charged with doing so.

The Chief of the Defence Staff (CDS) is a uniformed officer from the Canadian Forces; the latter collectively includes the three single military services and several joint commands. The Chief of the Defence Staff is appointed by the Governor in Council and "charged with the control and administration of the Canadian Forces." [4] All instructions to the Canadian Forces, whether from the Prime Minister, the Cabinet, or the Governor General must "be issued by or through the Chief of the Defence Staff." [5] All officers of the Canadian Forces are commissioned by the Queen, and the appointments are signed by the Minister of National Defence on the command of the Governor General.

Provisions for domestic operations are embedded directly in the National Defence Act. Until 1988 there were three different circumstances under which the military might be called upon to assist civil authorities.

- Disturbance of the peace: Aid of the Civil Power. Canada's ten provinces and two territories do not possess their own military forces in the way governors in the United States command National Guard forces in their states. Consequently, prior to 1988, units of the Canadian Forces,



request and then only when it was formally made, which the Premier oscillated on for several days. The Vice Chief of the Defence Staff (VCDS) was informed of that point. He directed the commander of Mobile Command to establish liaison with the provincial police. The plan was called Operation Essay.[22] 24 Sep 02 - 25 Jun 07

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Chief of the Defence Staff (VCDS) requested provincial police assistance so that a plan was called.

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At the same time, the VCDS authorized Operation Ginger. Unlike Essay, Ginger was not an Aid of the Civil Power operation. The federal government, using the office of the Solicitor General of Canada (analogous to the American Justice Department) as a medium, requested assistance to the civil authority. Mobile Command was asked to help the Royal Canadian Mounted Police (RCMP) secure federal government buildings in Ottawa, to provide armed escort to federal government officials, and to provide a quick reaction force. One thousand soldiers were deployed for these tasks two days prior to the deployment in Quebec. A special liaison staff was established at Canadian Forces Headquarters, including the RCMP and Ottawa city police, to ensure coordination and application of resources.[23]

Since the Quebec Premier had not made up his mind, the VCDS was directed to flesh out the two operations so that the Canadian Forces would "participate in a symbolic show of force against the FLQ without antagonizing the rest of Quebec." [24] Transport aircraft were placed a high state of readiness, as were 9000 troops from Mobile Command. Anticipated tasks included protection of diplomats, government buildings, and ministers in Quebec, as well as hydroelectric stations. The Premier finally formally requested Aid of the Civil Power, and the Quebec operation began on 15 October. Mobile Command then deployed to some 150 potential targets, while a joint police-army operation and liaison center was established in Montreal.[25]

At the same time, the Cabinet debated whether or not to employ the War Measures Act, which was at the time the only way the Prime Minister could legally "federalize" and unify the anti-FLQ effort.[26] Trudeau's view was that the Aid of the Civil Power legislation was too restrictive since it did not cross provincial boundaries, and as Ontario and Quebec were both targets, this constraint led to command and control problems. Consequently Trudeau decided that since criminal law enforcement was not adequate to deal with the FLQ, the government would implement the War Measures Act.[27]

The troops involved in the operations now had the ability to arrest citizens, the FLQ was declared an illegal organization, and a mass roundup of real and even potential FLQ sympathizers was conducted by Quebec police authorities.[28] The police action, which jailed 500 people without hearing, was conducted in a rather ham-handed fashion. In other cases, police chiefs in some western provinces decided to use the suspension of civil liberties to crack down on innocuous hippie-type groups.

Augmented by units from western Canada, which had arrived by strategic airlift, operating forces in Quebec now had additional tasks. These included assisting the police in cordon and search operations, mobile patrols in rural areas, and explosive ordnance disposal.[29] Airborne forces were brought in to conduct special operations. All operations were coordinated with provincial authorities, who were consulted and generally kept informed. Cordon and search operations were conducted by police and military personnel under police direction but army command.[30]

Pierre Laporte was murdered by his captors on 17 October, the day after the War Measures Act was implemented. British diplomat James Cross, however, remained imprisoned until December when a cordon and search operation stumbled across the FLQ unit holding him. After negotiations with the surrounded terrorists, the federal government provided the Cross kidnappers with transport to Cuba. Some of Laporte's killers, in addition to other FLQ members, were apprehended in later operations. On at least five and possibly as many as eight occasions, combined military and police security forces prevented FLQ cells from conducting violent acts.[31] The point had been made and the FLQ was successfully deterred from continuing its terrorist campaign. Military operations stood down in January 1971, and the FLQ has not conducted any terrorist operations since.

## Case 2: The 1976 Olympic Games

As the FLQ crisis was being dealt with in 1970, the City of Montreal won the bid to host the 1976 Olympics. In 1972, therefore, the Vice Chief of the Defence staff directed the formation of a three-man evaluation group to examine what support might be required from Canadian Forces for the event. While examining the security arrangements at the 1972 Olympic Games in Munich, this group observed at first hand the Black September seizure and murder of Israeli athletes. Their evaluation convinced Canadian authorities that anticipated levels of police support for the 1976 Games would be inadequate to the threat of a recurrence of the Munich tragedy and that, as a result, participation by Canadian Forces would be required.[32]

The Cabinet decided that the legal way to manage military support to the Olympics was to have the Solicitor General of Canada formally ask the Minister of National Defence to provide this support. In other words, the military's role in Olympics security was considered assistance to the civil authority, rather than Aid of the Civil Power--preventive, rather than response to acts already committed. Consequently, the Chief Committee on Public Safety for the Olympic Games was established with an army general as chairman. The committee included representatives of the Montreal police department, the RCMP, the Quebec provincial police, the Ontario provincial police, and the Canadian Forces.[33]

Protecting the 1976 Olympics posed a series of formidable tasks. Besides the scheduled royal visit, authorities were responsible for security at 24 competition venues, 59 training sites, and three housing sites, the bulk of which were spread out around the Montreal area, but also 150 miles away at Kingston, Ontario, where the yachting events were to be held. Canadian Forces tasks included the provision of VIP and vital point security at all of these sites and armed response to any situation that developed. Unlike the FLQ Crisis, all three services would be involved.[34]

A joint intelligence center was established to handle information collection on potential domestic threats; it also served as a conduit for information from international and allied sources. Because there were no threats from specific groups, threat scenarios were generic in nature; they included demonstrations, lone madmen, Munich-like kidnaping, hijackings, bombings, and assassinations. All committed forces were specifically trained to deal with each type of threat.[35]

The military deployment, some 16,000 personnel, was deliberately large. The planners wanted to provide a visible deterrent without alarming

visitors and the civil population. Unlike the FLQ crisis, during which troops deployed in full battle order, most of the forces were in civilian uniforms rather than combat clothing. They were armed, of course, with an array of snipers' rifles. [36]

Task forces, most drawn from Mobile C, provided an immobile quick reaction force composed of elements of the Canadian Airborne Regiment, provide Mirabel and Dorval airports, provide no-fly zones over Montreal, and ensure that Montreal harbor was secure, that no one interfered with the helicopter and interceptor support, provide an immobile quick reaction force composed of elements of the Canadian Airborne Regiment, provide the trans-Atlantic cable, and that terrorists did not lay any mines. A separate infantry battalion was tasked with the Queen's security. [37]

Other military responsibilities included VIP and vital point security in the Kingston area to ensure that no one interfered with the yachting events held on Lake Ontario, a quick reaction force based in the athletes' dormitory, and joint border patrol and intelligence gathering operations with the RCMP. A joint operations center was established with the local Kingston police, the provincial police, and the RCMP. [38]

There were no terrorist incidents during the 1976 Olympics.

### Legal Basis for Domestic Operations, 1988-Present

Many Canadian civil libertarians had been shocked by the roundup and detention of citizens during the FLQ crisis, not all of whom proved to be members or even sympathizers. Some commentators believed that the War Measures Act was too draconian, while separatist propaganda portrayed the military's activities in a conspiratorial light. The implication was that the operation was merely a test to see if the military could take over the country. [39]

Subsequently, the first comprehensive review of Canadian defense policy since 1971 produced the 1987 Defence White Paper; the latter concluded that the War Measures Act was "too broad and too sweeping." Though the act was considered acceptable for use in a war situation, it was considered to incorporate "few safeguards against abuse" in domestic operations. The more vaguely stated measures for providing assistance to the civil authority were declared an "incomplete patchwork" that did not "recognize the role or legitimate interests of the Provinces." [40] What followed was a restructuring of the laws and policies that would henceforth govern the manner in which Canadian Forces would respond in domestic crises.

- **Emergencies Act.** In 1988, the government replaced the War Measures Act with the Emergencies Act, which recognizes four types of emergencies: public welfare (severe natural disasters); public order (threats to the internal security of Canada); international (when intimidation, coercion, or the use of serious force or violence threatens the sovereignty, security, or territorial integrity of Canada); and war (war or other armed conflict, real or imminent, involving Canada or any of its allies). [41]

Unlike the War Measures Act, the Emergencies Act specifies the types of powers the government is allowed to exert under each of the four circumstances. For example, in a Public Order Emergency, the Governor in Council is authorized to prohibit public assembly and travel to and from a specified area, and to designate and secure protected places, assume control of public utilities, and impose summary convictions for up to six months of imprisonment. Note that unlimited search and seizure, which was available to security forces under the War Measures Act, is not available under a Public Order Emergency in the Emergencies Act. It is, however, still available under an International Emergency. [42] The new act is structured to deal with situations such as a terrorist threat composed of indigenous Canadians with outside support. Under the new law, officials would have the option of declaring either a Public Order Emergency or an International Emergency in such a situation.

Parliament must be convened within seven days of an emergency and a full explanation of the government's reasons and actual response must be provided. Time limits will be placed on the government's response operations, and full consultation must be made with the province in question in the case of a Public Welfare or Public Order Emergency. Any suspension of civil liberties by the government during the emergency is also subject to specific parliamentary oversight. [43]

- **Emergency Preparedness Act.** Companion legislation established the organization known as Emergency Preparedness Canada (EPC) and placed it under the jurisdiction of the Department of National Defence. This act legislated that federal and provincial government departments must create administrative machinery and cooperative contingency plans at the provincial level with DND and EPC to respond to the four types of emergencies described in the Emergencies Act. [44]
- **1994 Defence White Paper.** The collapse of the Berlin Wall in 1989 and the receding communist threat in the early 1990s produced another evaluation of defense policy, the 1994 Defence White Paper. This policy statement clarified the roles and missions of the Canadian Forces in domestic operations. In addition to the Aid of the Civil Power and Emergencies Act provisions, the Department of National Defence defined the following seven areas in which military forces would be deployed on a more-or-less ongoing basis: providing peacetime surveillance and control (sovereignty protection); securing Canadian borders against illegal activity (counter-narcotics); fisheries protection; environmental surveillance; disaster relief; search and rescue; and counterterrorism. [45] Counterterrorism was buried in the text of the 1994 White Paper and not elaborated on, probably for security reasons. This reflected the transfer of the national dynamic entry mission from the RCMP's Special Emergency Response Team (SERT) to the army's JTF-2 unit in 1993.

There are now four main categories of services that the Canadian Forces provide in the domestic arena: those provided under "acts, regulations, existing contracts, or agreements" (like the National Defence Act); services provided to other government departments (which in effect is assistance to the civil authority); the use of surplus defense capacity, and unspecified "requests for services which are provided in the public interest." [46]

The Canadian Forces also underwent some restructuring which has favorably affected their ability to conduct domestic operations. The most important of these was the creation of the J-Staff. Assessment of a Canadian Forces noncombatant evacuation contingency plan created in the

wake of civil disturbances in Haiti in 1994, and assisted out several flows in national crisis management and command. In that operation, which was supposed to be joint, there was no joint staff at National Defence Headquarters to coordinate the ( ) of the plan. In m... 5, Canadian operat... with... a providing forces to joint coalitions which included Canada... ability of Canadian Forces to plan and conduct a unilateral joint out-of-area operation.[47]

The J-Staff evolved throughout 1990 during the Gulf War, in which Canada provided naval and air forces under a Canadian joint force headquarters. The J-Staff is located at National Defence Headquarters in Ottawa and reports directly to the CDS. It consists of a battle staff (J-1 through J-6 positions) and a crisis action team, which is a smaller subset of the battle staff set up to handle specific crises and incidents. In essence, the J-Staff eliminates the ad hoc responses that had been common to Canadian Forces planning in international and domestic immediate crisis situations, and facilitates political input into the crisis response process. The commands now generate forces for a Joint Force Headquarters, which is created by the J-Staff early in a crisis to actually command the forces in the area. The Joint Force Headquarters reports to the CDS.[48] In addition, the army structure, which was reorganized in 1993, includes domestic operations staffs at each of its four national regional headquarters.

### Case 3: The Oka Standoff (1990)

The social dynamics that produced the FLQ in the 1960s also shaped the creation of a new Native consciousness in North America. This was instrumental in the development of a heightened consciousness among the Mohawk people, who live on six reserves in upstate New York, Ontario, and Quebec. For our purposes, the most important reserves are Awkwahasne, which straddles the Quebec, Ontario, and New York borders; Kanesatake, near the town of Oka, Quebec, on the north side of the St. Lawrence River west of Montreal; and Kahnawake, on the east side of the river south of Montreal.[49]

The intricacies of tribal politics militate against a detailed portrayal of them in this article, but by and large they amount to this: there are several factions on each reserve with differing but overlapping agendas. Violent incidents started in the 1970s between the elected tribal councils, which were recognized by the Canadian and American governments, and the Longhouse People (Mohawk traditionalists) who were not. Also in this mix was the loosely organized Warrior's Society, formed in 1972, which based its ideology on the preservation of Mohawk values, outright Mohawk sovereignty, and violent confrontation.[50]

By the 1980s, many Mohawks realized that the location of the reserves in the border area and the inability of the federal governments to patrol the region offered the opportunity to profit from illegal cigarette smuggling and the sale of duty-free gasoline. Those Mohawks who had determined that they constituted a sovereign nation did not see this as illegal behavior. In addition, the New York state government had encouraged the establishment of large gambling facilities under Mohawk control on the US side of the border in Awkwahasne, which provoked violence in 1988-89 between pro-gambling Mohawks and a coalition of traditional elected leaders who were firmly against it. The Warrior's Society aligned itself with the pro-gambling faction since they saw the chiefs as an imposition on Mohawk sovereignty by the two federal governments. The level of violence was so high in early 1990 that a US National Guard helicopter was forced down by Warrior Society gunfire and a Canadian mechanized battalion was moved to Cornwall, Ontario, in preparation for an Aid of the Civil Power mission, which was subsequently canceled.[51]

At the same time, two other events unfolded. The Warrior's Society was asked by pro-gambling Mohawks at Kahnawake to protect them from anti-gambling advocates. Armed Warriors deployed to Kahnawake, including some of the men wanted for questioning in the United States about the helicopter incident. On the Canadian side of the river at Kanesatake, the Oka municipal government decided to challenge the rights of the local Mohawk population to a piece of land with the aim of expanding the Oka golf course from 9 to 18 holes. In a matter of days, Warriors were advising the residents of Kanesatake on how to conduct armed resistance in the event that the Surete du Quebec (SQ) police were called in by the Oka municipality. This eventually did happen, and in an inept assault by SQ police a corporal was shot and killed. The SQ retreated.[52]

In a sympathy move, a mix of Kahnawake locals and Warriors blockaded the Mercier Bridge and set up several barricades, which forced the Quebecois living in the suburbs around Kahnawake to commute two to three hours each way into Montreal. A covert flow of Warrior reinforcements and weapons into the region then started; it was based in one sense on the belief that the standoff was a matter of exerting sovereign authority over Mohawk land and in another sense to protect the burgeoning economic benefits accrued through gambling and cigarette smuggling.[53] Mohawk demands included the right to negotiate nation-to-nation, not province-to-Mohawk; return of Oka land to the Kanesatake group; full police withdrawal; and the placement of all issues before the World Court. The Quebec Premier refused to negotiate on these points.[54]

On 6 August, the SQ informed the provincial government that they did not have the resources to handle the situation. There were an estimated 200 insurgents at Kanesatake and 400 at Kahnawake. Fifty to 70 of these were estimated to be hard-core radicals, mostly from the Warrior's Society; they were equipped with some 500 weapons ranging from AK-47s and M-16s to .50 caliber sniper rifles and either RPG-7 or 66mm LAW anti-tank weapons. The insurgents were dug into a trench system and had erected obstacles and established a communications system among Kanesatake, Kahnawake, and Awkwahasne. The SQ had asked for and received assault rifles and body armor from the Canadian Forces but eventually concluded that there was no alternative to bringing in the military.[55]

After the Prime Minister informed the provincial Premier that a formal written request for Aid of the Civil Power would be required, the CDS and Commander, Mobile Command, met with the Premier on 8 August to develop the army's mandate and to ensure that the Premier was cognizant of the nature and extent of the army's capabilities. The military leadership established four tasks for Operation Salon, which were fully understood and agreed to by the Premier: remove barricades at both sites, restore freedom of movement across the Mercier Bridge, remove strong points, and restore public order and security. This last task was extremely important. The Quebecois population on the north end of the Mercier Bridge and around Kahnawake were rioting, and RCMP riot police were unable to contain the situation. In consultation with Commander, Mobile Command, the on-site brigade commander determined that a massive show of force was required not only to intimidate the

Mohawk insurgents but to increase military forces not unlike in traditional UN peacekeeping operations between the C and JUN cois population, the SQ and the Mohawk insurgents so that higher level negotiations could proceed.[50]

On 10 August, 4400 men were placed at low altitude to gather photo intelligence, while a special unit collected signals intelligence. A joint task force headquarters was deemed unnecessary. At the brigade level, there was a coordination cell consisting of the army, the SQ, the RCMP, and the local police chaired by the brigade commander. The cell reported to Commander, Mobile Command, who had a larger coordination cell consisting of the same players plus the communications security establishment, and Canadian Security Intelligence Service representatives. The CDS sat in on national Cabinet meetings, while Commander, Mobile Command, sat in on the provincial crisis cabinet meetings. This ensured that there was constant communications among civilian authorities, the police, and the army.[57]

The army was moved into place on 17 August. Subsequent operations involved cordoning off and securing the operational area, patrolling, and contingency plans for an assault on the defensive positions if negotiations utterly failed. Minimum force was the main operating principle. It involved slow but constant pressure applied through incremental troop advances (backed with armored vehicles) in areas sparsely controlled by the insurgents and a full battery of psychological operations, including frequent night patrols, low-level helicopter flights, and well-aimed spotlights. The aim was to reduce the insurgent perimeters as much as to unhinge the occupants psychologically.[58]

By 27 August, the provincial government was under increasing pressure from the population to get the Mercier Bridge open. Army elements initiated a movement in armored personnel carriers toward the bridge barricade on 2 September, and the Mohawks started to dismantle it. Over the next six days, the other Kahnawake barricades were removed after negotiation between the army and the Warriors. Fifteen Warrior float plane flights shuttling between Kahnawake and Awkwesasne were tracked by an air defense system radar. Since the army recovered only 150 of the 500 weapons known to be present, it seemed clear that the bulk of them had been removed by air. The decision was made not to interfere with the flights. The bridge opened for traffic on 6 September while troops conducted cordon and search operations in Kahnawake for arms dumps, one of which resulted in a riot.[59]

On the other side of the river, the Khanesatake perimeter incrementally shrank to the point where the insurgents were corralled in a detoxification center. After continuous psychological pressure, the insurgents concluded that resistance was futile. In the confusion of a staged riot that followed the evacuation of the detox center, several Warrior members escaped. The remaining 50 were arrested and held in military custody as there were fears that the SQ would retaliate for the death of the only individual killed in the standoff.[60]

#### Case 4: The Red River Flood, 1997

Unlike the previous cases, the enemy in this operation was Mother Nature herself. Though this was not the first time severe floods had created a disaster, support provided in this one eclipsed previous Canadian Forces operations involving natural disasters due to the magnitude of the response: over 8500 soldiers, sailors, and airmen participated.[61]

A rapid snow melt in the northern United States swelled the Red River and its tributaries, which flow north into the province of Manitoba. On 28 February 1997, the Deputy Chief of Defence Staff directed the J-Staff to initiate contingency planning for possible flooding in southern Manitoba; liaison was established between military and provincial emergency planning personnel.

On 19 April, upon declaration of a public welfare emergency, the Manitoba government asked the Minister of National Defence for personnel to build dikes in southern Manitoba. A joint operations center was created with military, provincial, and national representatives, and eventually the premier of Manitoba formally asked for and received support as called for under the provisions of assistance to the civil authority.[62]

On 26 April, the extent of the flooding exceeded original estimates, which in turn increased military support requirements.[63] Additional task forces consisted of infantry, armored, military police, artillery, medical, and service units from the land forces; anti-submarine helicopters (which could land in water), clearance divers and small boat units from Maritime Command; and helicopter and transport units from Air Command. Each task force had prodigious engineer support provided by army engineer units and air force airfield engineer squadrons.

Almost all work carried out by the task forces was analogous to common battlefield functions. Reconnaissance aircraft, ground units, and satellites kept track of the flood's progress, while search and rescue helicopters evacuated the population. Strategic airlift was used to bring in engineering resources from across the country. Military police handled movement control, while combat arms units controlled looting in evacuated areas. Engineer units built and maintained dikes, and diver units kept track of their integrity. The entire operation would have been impossible without the communications provided by divisional and brigade mobile signals units.[64]

#### Observations and Conclusion

The most important of the following observations is that the Canadian approach to supporting civilian authority is extremely flexible, relying as it does on a carefully designed legal framework and a professional force structure. Legislation does not prescribe the exact civil-military relationship at the operational and tactical levels as it does at the national and provincial leadership levels, nor does it hamper commanders by dictating the levels of response which may be required in violent situations. The military is not overburdened with legalities. The government accepts a high reliance on military professionalism and training, and on an organization which has a higher loyalty than to elected officials. Although the political level may not always have known the details of civil-military relationships in domestic operations, in all cases they have understood that there are limits to the civil authorities' capability in terms of coordination, communications, mobility, organization, discipline, and force and have allowed the military to take over when the situation required it. In the two most serious situations, the FLQ crisis in 1970 and the Oka standoff in 1990--with the exception of the 1970 roundup of alleged supporters of the radical organizations--the military played a powerful supporting role.

The main dilemma for elected officials is the understanding that deploying troops domestically is a politically provocative act, one that carries

much weight regardless of the situation. Despite the 1990 success at Oka in the latest two rounds of disputes with the Iroquois, the federal government has insisted on providing limited aid to civil authorities instead of deploying a 3000-man army to draw from Ontario provincial police reserves in the future. Another situation, comparable in many respects to the Wounded Knee episode in the United States, occurred at Gustafsen Lake in British Columbia in 1995. During that incident, 400 RCMP officers borrowed six armored carriers, assault weapons, and night vision equipment to deal with 24 heavily-armed insurgents who had shot and wounded two RCMP officers.[65] At least one American observer has implied that the Canadian army displayed greater professionalism than the various American federal police forces did at Waco.[66] The possibility of a Canadian "Waco" will probably increase, however, with the use of semi-paramilitary police forces to handle disputes involving armed paramilitary organizations.

Another important aspect of the Canadian approach to domestic operations is that it dramatically reflects the differences in American and Canadian political and legal cultures. The Posse Comitatus Act appears to limit the use of US armed forces to a series of specific cases and then places severe restrictions on what those forces can do. For example, a state may ask the President to call the state militia into federal service to handle an insurrection versus the state government, or the President may call in federal forces to enforce federal authority within a state. Under the Posse Comitatus Act, soldiers called out for such duty cannot arrest, search, or seize, and may not interdict vehicular movement nor keep it under surveillance. They cannot act as investigators or informants.[67] These constraints may have been appropriate in the late 1800s, but in a world where non-state groups have access to weapons of mass destruction (narcotics as well as chemical and biological weapons) they could prove to be counterproductive. Recent Canadian legislation, by contrast, is simple, straightforward, and flexible while at the same time incorporating important safeguards for the civil population.

Outdated and inflexible American legislation has produced a patchwork consisting of constitutional and statutory exceptions so that the realities of domestic operations can be performed. Examples include the Stafford Act (Disaster Relief Act); convoluted legislation enmeshing the US armed forces in the drug war; contingency planning for US Army assistance in incidents involving use of chemical and biological weapons of mass destruction on American soil, and various methods to facilitate cooperation between the FBI and the US Army in anti-terrorism.[68] The potential consequences of this approach include a convoluted command and control structure, decreased response time, and continuity-of-operations problems; it also leaves the federal response vulnerable to exploitation by the adversary. Most important, the soldiers conducting the operations are constrained by myriad legalities that they are not trained to deal with. Soldiers are soldiers, not lawyers.

Some aspects of the Canadian domestic operations approach could be readily used as models for US lawmakers, while cultural and political traditions would preclude the use of others. The close EPC-DND contingency planning relationship could have an American counterpart other than the overburdened and often criticized FEMA organization. The Joint Task Force headquarters concept is already employed effectively by the United States. The very important conflict resolution experiences that are ingrained in Canadian army culture after years of UN peacekeeping operations were extremely valuable at Oka and the other operations. These experiences complemented training for high-intensity war (the army's primary mission) and did not detract from it. Non-federal American forces involved in domestic operations will be able to acquire similar training and experience from US Army personnel that have conducted peacekeeping operations in Bosnia, Haiti, and elsewhere. With the increased use of the American armed forces in the drug war and the specter of more violent unorganized resistance by militia groups, perhaps it is time to reconsider the legal underpinnings for American domestic operations in light of the Canadian experience. We have the same enemies and a very long common border.

## NOTES

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1. Stephen Brooks, *Canadian Democracy: An Introduction* (Toronto: Oxford Univ. Press, 1996), pp. 154-56; R. MacGregor Dawson, *The Government of Canada* (Toronto: Univ. of Toronto Press, 1952), pp. 173-74.
2. James Eayrs, *In Defence Of Canada: From the Great War to the Great Depression* (Toronto: Univ. of Toronto Press, 1964), pp. 232-35.
3. Government of Canada, R.S. 1985 C. N-5, "National Defence Act."
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. See Government of Canada, *Defence in the 70s* (Ottawa: Dept. of National Defence, 1970), pp. 11-19. Information acquired under Access To Information (hereafter ATI), Lieutenant Colonel M. Kolesar, National Defence College Paper, "The Canadian Forces in the Role of Internal Security: A Need for Re-assessment and Improvement," June 1970.
9. This legislation was the Civil Defence Order (1959) which in part stipulated that the armed forces could act without provincial governmental request in the event of a nuclear attack on Canada. The armed forces were originally to restrict themselves to providing emergency support to provincial governments to maintain law and order and to deal with panic and a breakdown of civil authority. See National Archives of Canada, Record Group 24, vol. 568, file 096118.s.v2), Army Headquarters, "Survival Operations--Maintenance of Law and Order--Powers Respecting

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12. See Gustave Morf, *Terror In Quebec: Case Studies of the FLQ* (Toronto: Clarke, Irwin, and Co., 1970) as well as the National Film Board of Canada's documentary film, "Action: The October Crisis."

13. The exact size and organization of the FLQ remains subject to debate. There were numerous cells which specialized in direct action, propaganda, or political activism. At a minimum, the FLQ probably had at least 100 active members and at least 3000 more passive sympathizers. Dan G. Loomis, *Not Much Glory: Quelling the FLQ* (Toronto: Deneau Publishers, 1984), pp. 29-30; and Louis Fournier, *FLQ: Anatomy of an Underground Movement* (Toronto: NC Press, 1984).

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