

CLAMO Report

Center for Law and Military Operations (CLAMO),
The Judge Advocate General's School

Domestic Operational Law

Homeland Defense, Asymmetric Means, Wildcard Scenarios, Information Warfare, Defense Threat Reduction Agency, RAID Teams, Agro-Terror, Weapons of Mass Terror—are these familiar terms? They are to the Center for Law and Military Operations' first Director for Domestic Operational Law.¹ Domestic Operational Law might be defined as that body of domestic, foreign, and international law that directly affects the conduct of domestic operations—operations conducted within United States' territory, waters, and contiguous zones.

Generally, domestic operations fall into three categories: military support to civil authorities (for example disaster relief), military support to law enforcement (for example civil disturbances, counterdrug operations), and military support to terrorism response (to include those involving weapons of mass destruction and other emerging threats). The need and demand for military preparation, planning, and involvement in these areas is great. The legal issues are numerous and complex. They range from adjudicating expenditures in disaster relief operations to use of force rules for armed federal troops assist-

ing counterdrug operations in the state of Texas as part of Joint Task Force 6. The laws governing what the military can and cannot do vary greatly depending on where the operation is being conducted, what state or federal agencies are participating, and what type of military forces—National Guard, Reserve, Active Component, or some combination—are participating. The importance of the “Total Army”—understanding and integrating the roles of the National Guard, Reserve, and Active Component forces—is heightened in Domestic Operations.² For example, in a disaster relief operation, it may not be desirable to order Guard units to active federal service because they would lose authority to perform law enforcement functions.

The Center's new Directorate for Domestic Operational Law will extend the Center's mission to examine legal issues that arise during all phases of military operations and to devise training and resource strategies for addressing those issues in the domestic arena. For the present, this Directorate will complete the Total Army circle. In the near future, it will serve as the JAG Corps' focal point for domestic initiatives, training, and operational support. Major Randolph.

1. Lieutenant Colonel Gordon W. Schukei reported to the Center for Law and Military Operations on 2 August 1999 pursuant to an agreement by Lieutenant General Russell C. Davis, United States Air Force, Chief, National Guard Bureau, with Major General Walter B. Huffman, The Judge Advocate General. Lieutenant Colonel Schukei is Active Guard, previously served as the Active Guard/Reserve (AGR) Staff Judge Advocate Officer at Headquarters, State Area Command, Wyoming Army National Guard, and should be the Center's Director for Domestic Operational Law for three years. Lieutenant Colonel Schukei and the Center may be contacted at (804) 244-6278 or Gordon.Schukei@hqda.army.mil.

2. See generally DEPARTMENT OF DEFENSE PLAN FOR INTEGRATING NATIONAL GUARD AND RESERVE COMPONENT SUPPORT FOR RESPONSE TO ATTACKS USING WEAPONS OF MASS DESTRUCTION (Jan. 1998) <http://www.defenselink.mil/pubs/wmdresponse/>; THE RESERVE COMPONENT EMPLOYMENT STUDY 2005 (RCE-05) (June 11, 1999) <http://www.defenselink.mil/pubs/rces2005_072299.html>, <http://www.defenselink.mil/pubs/rces2005_072299.pdf>. In many cases the Reserve Component (RC) is particularly well-suited to homeland defense missions because the RC infrastructure exists throughout all 50 states, and RC units are already quite familiar with disaster response requirements, a significant component of the homeland defense mission.