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**NAVAL  
POSTGRADUATE  
SCHOOL**

**MONTEREY, CALIFORNIA**

**THESIS**

**THE MILITARY'S ROLE IN DOMESTIC TERRORISM**

by

Timothy W. Thurston II

December 2007

Co-Thesis Advisors:

Letitia Lawson  
Michael Freeman

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**THE MILITARY'S ROLE IN DOMESTIC TERRORISM**

Timothy W. Thurston II  
Major, United States Air Force  
B.S., United States Air Force Academy, 1995  
M.B.A., Webster University, 2001

Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES  
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from the

**NAVAL POSTGRADUATE SCHOOL  
December 2007**

Author: Timothy W. Thurston II

Approved by: Letitia Lawson  
Co-Thesis Advisor

Michael Freeman  
Co-Thesis Advisor

Douglas Porch  
Chairman, Department of National Security Affairs

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## **ABSTRACT**

This thesis argues that civilian law enforcement is more effective than military law enforcement against domestic terrorism. It uses a case study approach to analyze government reactions to terrorism in Canada against the FLQ, and in Northern Ireland against the IRA. It concludes that the best approach to domestic terrorism is a combination of civilian and military security forces working together. Within this framework, the military should maintain a support role to the civilian police. As a result, amendment or repeal of the Posse Comitatus Act is unnecessary. As written, the law provides adequate flexibility for government leaders to deploy military troops as the need arises. Furthermore, this thesis provides lessons learned for policymakers considering the deployment of military to combat domestic terrorism.



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# I. INTRODUCTION

## A. PURPOSE

The American public faces tough questions about how to react to terrorism following the events of 9/11. Among the most pressing is how best to undertake counter-terrorism, defined as the “offensive measures taken to prevent, deter, and respond to a terrorist act, or the documented threat of such an act.”<sup>1</sup> Presently, there is a consensus among members of government and the armed forces regarding the need to use the military in a counter-terrorism role outside of U.S. borders. On September 14, 2001, the House of Representatives and U.S. Senate passed Public Law 107-40, the *Authorization for the Use of Military Force Against Terrorists*, by a nearly unanimous vote.<sup>2</sup> This law authorized military deployments to both Afghanistan and Iraq to fight the global war on terror (GWOT). Additionally, in the Horn of Africa, the military is involved in non-traditional humanitarian activities as part of a strategy to preempt the spread of terrorism to the region by ‘aggressively waging peace.’<sup>3</sup>

A smaller, but just as important debate is now emerging on whether there is also a need to use the armed forces to combat terror within U.S. borders. Some suggest that domestic use of the armed forces is a necessary component of effective counter-terrorism, while others argue against such a policy, fearing the implications for civil liberties. This thesis will examine the effectiveness of using the military as a domestic counter-terrorism tool as a means of addressing this debate.

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<sup>1</sup> United States Intelligence Community, “Intelligence Terms and Definitions,” <http://www.intelligence.gov/0-glossary.shtml> (accessed May 20, 2007).

<sup>2</sup> Findlaw: Legal News and Commentary, “Authorization for use of Military Force S.J.Res.23,” <http://news.findlaw.com/hdocs/docs/terrorism/sjres23.enr.html> (accessed October 22, 2007) The vote in the House was 420 to 1 and 98 to 0 in the Senate. The bill was signed into law on September 18, 2001. The law grants the President to combat terrorism abroad to prevent future acts, “a) IN GENERAL- That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”

<sup>3</sup> United States Department of State, *National Strategy for Combating Terrorism* (February 2003), 16.

## B. IMPORTANCE

Terrorism today operates as a global network, as groups like Al Qaeda have replaced the predominantly nationalist terrorist groups of the past.<sup>4</sup> This has changed the face of terrorism. In addition, while initial transnational terrorism against the United States was expeditionary, involving teams inserted into the United States to complete a pre-planned attack, the State Department reports that the larger threat is now from “guerrilla terrorism.” These are attacks by local nationals inspired by transnational organizations to conduct terrorist attacks within their own country. Intermediaries and web-based propaganda exploit immigrant expatriate populations vulnerable to persuasion. The London subway attacks in July 2005 demonstrate this phenomenon.<sup>5</sup> This new trend of guerrilla terrorism suggests that future terrorist attacks against the United States will likely come from within. With large diasporas spread across the country, potential exists for homegrown domestic terrorism on a magnified scale. Minority communities could feel persecuted by the government and react with violence.

As such, a new wave of thinking advocates using military forces in a domestic law enforcement role against terrorism. Some suggest that if the military is the correct force to counter terrorism abroad, then it should also be effective at home as well. This directly challenges the intent of the Posse Comitatus Act. A long-standing consensus maintains that the internal use of military force threatens American society and its democracy. Introducing military forces into a domestic law enforcement role presently requires an executive order. In order to fight the “war on drugs,” Congress introduced an amendment to the Posse Comitatus Act authorizing the Secretary of Defense to deploy

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<sup>4</sup> United States Department of State, *National Strategy for Combating Terrorism* (February 2003). 5. This paper states that the focus on terrorism has shifted. The openness of the modern world, or globalization, enables terrorists to easily penetrate our society. Furthermore, the various terrorist groups are interconnected and can draw strength and support from terrorist organizations in various countries.

<sup>5</sup> United States Department of State, *Country Reports on Terrorism 2006*, (April 2007). Terrorists make use of global media like the internet to spread propaganda and inspire attacks to support their own interests. Often they take advantage of immigrant expatriates or other similar sympathizers. This action circumvents crossing international borders and bypasses the need to transport money and materials, which increase the chances of detection.

military equipment and personnel necessary for law enforcement purposes.<sup>6</sup> Lawmakers have suggested that the Global War on Terror (GWOT) presents an even greater justification for the use of military force. Moreover, the advanced skill set that military forces provide presents a strong incentive towards their use.

## C. LITERATURE REVIEW

### 1. Survey of Prior Work and Major Debates

The Posse Comitatus Act was passed in 1878 to curb police and judicial powers of the Army during the Reconstruction period in the South. It prohibits the use of armed forces in the execution of civilian law, and remains in force today, with several statutory limitations allowing for multiple interpretations of the law having been added by Congress over the years.<sup>7</sup> The Posse Comitatus Act states:

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 under this title or imprisoned not more than two years, or both.<sup>8</sup>

Although the words appear straightforward, much contention among lawyers, civil libertarians, and government officials has arisen over what constitutes a violation of

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<sup>6</sup> U.S. Code Online, "Title 10-Armed Forces, Chapter 18-Military Support for Civilian Law Enforcement Agencies," <http://uscode.house.gov/download/pls/10C18.txt> (accessed May 22, 2007).

<sup>7</sup> John Brinkerhoff, "The Posse Comitatus Act and Homeland Security," *HSI Journal for Homeland Security* (February 2002). <http://www.homelandsecurity.org/newjournal/articles/brinkerhoffpossecomitatus.htm> (accessed February 9, 2007).

<sup>8</sup> U.S. Code Online, "Title 18-Crimes and Criminal Procedure, Chapter 67-Military and Navy, Section 1385," [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+18USC1385](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+18USC1385) (accessed November 8, 2007).

the Posse Comitatus Act.<sup>9</sup> For instance, United States military involvement in riot control has received tremendous criticism. The 1992 Los Angeles riots associated with the Rodney King verdict drew scrutiny due to civil rights violations committed. Furthermore, those suggesting it surpasses the threat often criticize the President's use of emergency powers authorizing military troops to enforce law. Additionally, the United States Congress heatedly debated the use of military troops in fighting the "War on Drugs." Since there has never been a prosecution under the Act, the courts have not provided any clarification. Although this is a very old issue, the events of September 11, 2001 initiated more pronounced debates concerning the use of military in domestic roles. Congress could not have anticipated guerrilla terrorism instigated from foreign countries when it passed the Act in 1878. Insofar as threats to U.S. national security have been fundamentally transformed, a reconsideration of the Posse Comitatus Act is taking place.

Two schools of thought exist concerning the Posse Comitatus Act and the terrorist threat. The first argues that repeal or amendment of the current law is required because civilian law enforcement is not capable of acting as an effective counterterrorism organization. The second school argues for a strict upholding of the existing law, suggesting that civilian law enforcement can be an effective counterterrorism tool, and that repealing the law poses serious threats to civil liberties. Those calling for amendment note that the Posse Comitatus Act passed in the 19<sup>th</sup> century when a clear distinction existed between criminal law enforcement and defense of borders, and it now

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<sup>9</sup> Gary Felicetti and John Luce, "The Posse Comitatus Act: Liberation from the Lawyers." *Parameters* (Autumn 2004); Donald J. Currier, "The Posse Comitatus Act: A Harmless Relic From the Post-Reconstruction Era of a Legal Impediment to Transformation," (master's thesis, Strategic Studies Institute of the U.S. Army War College, September 2003). <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB249.pdf> (accessed February 9, 2007); Thomas R. Lujan, "Legal Aspects of Domestic Employment of the Army," *Parameters* 27, no. 3 (Autumn 1997); James F. Kelly Jr, "Broaden Armed Forces' roles at home and abroad," *United States Naval Institute. Proceedings* 128, no. 10 (2002); Noah Feldman, "Choices of Law, Choices of War," *Harvard Journal of Law and Public Policy* 25, no. 2 (Spring 2002); 457; Juliette N. Kayyem and Steven E. Roberts, "War on Terrorism Will Compel Revisions to Posse Comitatus," *National Defense* 87, no. 589 (December 2002), 41.

needs adjustment since this is no longer the case.<sup>10</sup> This camp points to precedents already set by military involvement in domestic affairs since the Act passed. For instance, the Army was involved in 125 interventions between 1877 and 1945, and has participated in 29 situations in the 20<sup>th</sup> century.<sup>11</sup> More recently, the military has participated in “special security events,” such as the Super Bowl or presidential inaugurations, suggesting a trend toward pragmatically relaxing the Act.<sup>12</sup> This camp also argues that the military is the only organization with the training, equipment, and expertise necessary to address terrorist threats. Counter-terrorism, they suggest, is simply another type of warfare. Therefore, the military should maintain the lead role.<sup>13</sup> Finally, this school notes that the Department of Defense (DOD) has emphasized defense of the homeland through an active and layered defense strategy. The *Strategy for Homeland Defense and Civil Support* specifies certain lead roles for the DOD.<sup>14</sup> “Through its deterrent force posture and capabilities, the Department seeks to convince adversaries that they cannot achieve their objectives through attacks on the U.S. homeland.”<sup>15</sup> Moreover, the strategy suggests that protecting the Homeland is the most important responsibility of the U.S. government. Therefore, every capability of the U.S. should be

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<sup>10</sup> Examples of this school include Craig T. Trebilcock, “The Myth of Posse Comitatus,” *HSI Journal for Homeland Security* (October 2000), <http://www.homelandsecurity.org/newjournal/articles/trebilcock.htm> (accessed February 9, 2007); Jeffrey H. Norwitz, “Combating Terrorism: With a Helmet or a Badge?” *HSI Journal for Homeland Security* (August 2002), <http://www.homelandsecurity.org/newjournal/articles/norwitz.html> (accessed February 13, 2007); Brinkerhoff, “The Posse Comitatus Act and Homeland Security,”; Currier, “The Posse Comitatus Act: A Harmless Relic From the Post-Reconstruction Era of a Legal Impediment to Transformation;” Lujan, “Legal Aspects of Domestic Employment of the Army;” Kelly, “Broaden Armed Forces’ roles at home and abroad;” Feldman, “Choices of Law, Choices of War;” Kayyem and Roberts, “War on Terrorism Will Compel Revisions to Posse Comitatus.”

<sup>11</sup> Gary Felicetti and John Luce, “The Posse Comitatus Act: Liberation from the Lawyers,” 100-101.

<sup>12</sup> Kayyem and Roberts, “War on Terrorism Will Compel Revisions to Posse Comitatus;” Felicetti and Luce, “The Posse Comitatus Act: Liberation from the Lawyers.”

<sup>13</sup> Department of Defense, *The National Defense Strategy of the United States of America* (March 2005) <http://www.defenselink.mil/news/Apr2005/d20050408strategy.pdf> (accessed November 11, 2007) The National Defense Strategy of the United States provided four priority areas for the DOD; defeating terrorist networks, defending the homeland in depth, shaping the choices of countries at strategic crossroads, and preventing hostile states and non-state actors from acquiring or using WMD. Hence, the military’s involvement in counterterrorism is mandated by the President. Proponents of military use in counterterrorism suggest this provides justification for an expanded role.

<sup>14</sup> Department of Defense, *Quadrennial Defense Review Report* (February 6, 2006) <http://www.defenselink.mil/qdr/report/Report20060203.pdf> (accessed May 11, 2007)

<sup>15</sup> *Ibid.*, 26.

employed, including the military. As such, repeal or amendment of the Posse Comitatus Act is necessary in order to adapt to changing perils, and to perform a core mission assigned to the military. In short, the Posse Comitatus Act has become a legal barrier to military effectiveness at a time when the U.S. must defend itself against a new kind of enemy.<sup>16</sup>

The other school believes that the Posse Comitatus Act should not be altered, arguing that the societal security costs would outweigh the state security gains of military law enforcement.<sup>17</sup> They emphasize that the Posse Comitatus Act reflects the American tradition of resisting military involvement in civilian affairs, reaching back to the colonial times, which safeguards civilian supremacy and protects basic civil liberties.<sup>18</sup> Additionally, they maintain that the law allows the military to concentrate on fighting and winning foreign wars, while leaving domestic law enforcement to the civilian police, who are trained for it.<sup>19</sup> Military involvement in Homeland Defense should consist of forward defense.<sup>20</sup> In other words, troops should be deployed abroad to combat terrorism. Internally, armed forces should continue in the role of providing Military Assistance to Civil Authorities (MACA). Hence, military involvement should be limited primarily to responding to the consequences of a terrorist attack in a support to civil power role, especially one using Weapons of Mass Destruction (WMD).<sup>21</sup> The military has different

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<sup>16</sup> Currier, "The Posse Comitatus Act: A Harmless Relic From the Post-Reconstruction Era of a Legal Impediment to Transformation."

<sup>17</sup> Mark Mazzetti, "Military Sees Limits to Role in U.S. Disasters," *Los Angeles Times*, October 13 2005, A11; Mark Sappenfield, "Disaster relief? Call in the Marines," *Christian Science Monitor*, (September 19, 2005); Charles L. Cragin, "A Ready, Capable Total Force," *National Guard* 53, no. 3 (March 1999); *The New York Times*, "Misusing the Military," (July 24, 2002), A16; Jennifer K. Elsea, "The Use of Federal Troops for Disaster Assistance: Legal Issues," *CRS Report for Congress* (November 6, 2006); Stephen R. Vina, "Border Security and Military Support: Legal Authorizations and Restrictions," *CRS Report for Congress* (October 23, 2006); Charles Doyle, "The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law," *CRS Report for Congress* (June 1, 2000); Joseph R. Barnes, "Despite the Posse Comitatus Act, Are Federal Soldiers About to Deploy as Deputized Border Patrol and Customs Agents?" *HSI Journal for Homeland Security*, (February 2002) <http://www.homelandsecurity.org/newjournal/commentary/barnes.htm> (accessed February 9, 2007).

<sup>18</sup> *The New York Times*, "Misusing the Military;" Jennifer K. Elsea, "The Posse Comitatus Act and Related Matters: A Sketch," *CRS Report for Congress* (June 6, 2005).

<sup>19</sup> *Ibid.*

<sup>20</sup> Steven J. Tomisek, "Homeland Security: The New Role for Defense." *Strategic Forum*, no. 189, (February 2002), <http://www.ndu.edu/inss/strforum/SF189/sf189.htm> (accessed May 8, 2007).

<sup>21</sup> *Ibid.*

rules of engagement, which do not necessarily coincide with respect for civil liberties. Finally, this school argues that previous amendments made to the Posse Comitatus Act make the law flexible enough to meet whatever counterterrorism situations may arise. Flexibility in the law has allowed for the use of military troops in a wide assortment of missions on multiple occasions.<sup>22</sup> As such, additional changes to the Posse Comitatus Act are unnecessary and potentially dangerous.

Within this debate, another more important question should be asked: Is military involvement in domestic counterterrorism more effective than civilian forces? Are the potential benefits of military involvement in the domestic arena worth the associated prospective costs? While the two schools clearly articulate alternative assessments, neither provides strong evidence in support of its claims. This is largely because the debate has been framed narrowly in terms of the applicability of the law in today's world. Arguments on each side fail to address if military troops would be effective in a domestic law enforcement role. Instead, they argue the details of the law concerning what it allows military troops to legally accomplish. Assumptions, particularly by those calling for repeal or amendment, suggest that the U.S. military would enhance law enforcement. In particular, they propose that the military is better at countering domestic terrorism than civilian law enforcement. Since the United States military has not participated in a domestic counter-terrorism role on a magnified scale, each side is basing its argument upon anticipated benefits and/or costs to society. Examination of other countries' responses to counter-terrorism within their borders may contribute to resolving the debate.

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<sup>22</sup> Constitutional exceptions to the Posse Comitatus Act exist within the law. For instance, another "constitutional" exception to the PCA is described by the Department of Defense regulations based upon the "inherent right of the U.S. Government . . . to ensure the preservation of public order and to carry out governmental operations . . . by force, if necessary." Congress has also recognized exceptions to the Posse Comitatus Act known as exceptions-in-fact and exceptions-in-name. Troops have also been used to quell riots in Detroit and Los Angeles. Disaster relief and strike relief have become missions for the military without violation of the law. For more information see Matthew Carlton Hammond, "The Posse Comitatus Act: A Principal in Need of Renewal," *Washington University Law Quarterly* 75, no 2 (Summer 1997).



## 2. Major Questions and Argument

If the use of military forces is not more effective at suppressing domestic terrorism than the use of civilian police, then the potential costs to society are irrelevant. Additionally, if military law enforcement produces conclusive results that civilian law enforcement is unable to achieve, then the results must be weighed in terms of societal costs in a cost/benefit analysis. This thesis will argue that civilian law enforcement is more effective than the military in countering domestic terrorism. The type of counterterrorism force (civilian or military) used is the independent variable, and the level of effectiveness the dependent variable.

Figure 1. Hypothesis



If this is true, the military should not be used in a domestic counter-terrorism role; at least not in lieu of civilian police, but perhaps as a supporting element. Moreover, the Posse Comitatus Act does not need amendment, nor does it need to be repealed. A wide variety of legal tools are available that give civilian law enforcement additional powers to oppose domestic terrorism. Recent examples of this include the USA PATRIOT Act and the Foreign Intelligence Surveillance Act (FISA) allowing for expanded wiretap and eavesdropping authority.<sup>23</sup>

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<sup>23</sup> The PATRIOT Act closes dangerous law enforcement and intelligence gaps by enhancing investigatory tools. For more information see Electronic Privacy Information Center, "The USA PATRIOT Act," <http://www.epic.org/privacy/terrorism/usapatriot/default.html> (accessed October 23, 2007). The FISA was amended in 2001 by the USA PATRIOT Act and provides details for collection of "foreign intelligence information." For more information see Electronic Privacy Information Center, "Foreign Intelligence Surveillance Act (FISA)," <http://www.epic.org/privacy/terrorism/fisa/> (accessed October 23, 2007).

## **D. METHODOLOGY**

### **1. Comparative Case Study**

The hypothesis will be examined by comparative analysis of internal counter-terrorism responses in other countries. The lessons derived from the two case studies selected will be used to develop recommendations for the use of military force in a domestic counterterrorism role within the United States. Each case will allow for an analysis of benefits and drawbacks based on the type of counter-terrorism force used, civilian or military. Based on the analysis of these cases, the conclusion will offer suggestions about which type of force the United States should employ to fight domestic terrorism. Furthermore, it will consider potential consequences of the using one type or the other.

Since the goal is to draw implications for the U.S., I selected cases that are as similar as possible to the United States. It is important to analyze how governments comparable to the U.S. have reacted towards terrorism. In addition, a democratic regime is also an important antecedent condition for this study. Therefore, Western democracies offer the best cases for comparison. Finally, to facilitate comparison of law enforcement and military effectiveness, it is necessary to select from among cases in which both were engaged in internal counter-terrorist operations. The resultant universe of cases includes Western democracies that countered terrorism using both civilian and military means.

Many countries that meet these criteria utilize a different arrangement of security forces than the U.S. For instance, many European countries utilize a gendarmerie, a military body that undertakes police duties among the civilian population. These countries were excluded since U.S. civilian law enforcement does not operate according to this framework. The cases selected for this thesis are the United Kingdom's encounters with the Irish Republican Army (IRA) during "The Troubles" episode starting in 1968, and Canada's experiences with the Front de Liberation du Quebec (FLQ).

Chapter II will analyze the Canada and the FLQ while Chapter III will study the United Kingdom's domestic counter-terrorism response to the IRA. The case study

chapters are followed by a comparative analysis and conclusion chapter. These conclusions will help to build a framework for domestic counter-terrorism response in the United States. Since both case studies include Western democracies similar to the United States, the lessons learned are applicable. The conclusions will provide insights to decision-makers, and potentially counterterrorism policy. Additionally, they will uncover the potential benefits or consequences of military employment in this role.

## **2. Sources**

This thesis will rely predominantly on previous work in the field to study the two test cases. Much of the literature to this point examines the terrorist situation within the country studied. I will use this research to examine a new question: the effectiveness of the government responses using police and military forces.

## II. FRONT DE LIBERATION DU QUEBEC (FLQ)

### A. INTRODUCTION

This chapter addresses the military and police reactions to the Front de Liberation du Quebec (FLQ), a domestic terrorist group. Canada is often overlooked as a victim of terrorism, but from 1963 until 1972, the FLQ fought against the Canadian government for an independent Francophone state of Quebec, separate from English speaking Canada. In reaction to FLQ terrorism, which culminated in the 1970 October Crisis,<sup>24</sup> both military and police forces deployed. The FLQ was destroyed, resulting in a success for Canada's counterterrorism efforts. While the deployment of military troops is often credited with ending FLQ terrorism, this chapter shows that, in fact, routine police work was responsible for ending the October Crisis and eliminating the FLQ.<sup>25</sup> Therefore, this case outlines how the roles assigned to the military and the police provided the framework to successfully counter the FLQ.

The FLQ is a useful case to study because both military and civilian police forces responded to counter domestic terrorism. Moreover, the actions were successful not only in ending the crisis, but also in destroying the FLQ. In this respect, the case represents one of the few victorious government encounters with terrorism in a Western democracy. This chapter attempts to show that the government success in countering the FLQ was due to the supporting role played by military forces. This supporting role was an effective use of the military, and benefited the police in their duties to restore law and

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<sup>24</sup> The October Crisis represents one of the most important political crisis in Canadian history. It refers to the 84 day period in which two political actors were kidnapped by the FLQ, James Cross and Pierre Laporte. During this time, government forces deployed in mass to Quebec to prevent a potential insurgency in the province.

<sup>25</sup> Many authors in the literature contend that the deployment of the military was the necessary action to quell FLQ action. This argument is presented by Dan G. Loomis, *Not Much Glory: Quelling the F.L.Q.* (Toronto: Deneau Publishers, 1984); G. Davidson Smith, "Canada's Counter-Terrorism Experience," *Terrorism and Political Violence* 5, no. 1 (Spring 1993).

order. Analysis of this case provides direction for policy makers in how best to utilize the military in a law enforcement role. It also highlights several aspects that need further attention.

This chapter is divided into three parts. The first provides background information on the FLQ. It looks at the formation of the terrorist organization, their goals, and history of violence. The next part analyzes the government response to the FLQ. In particular, the case examines military and civilian strategies used to counter terrorism. Finally, the chapter ends arguing that the allocation of roles assigned to the military and civilian forces accounted for the success in Canada.

## **B. THE FLQ**

The FLQ emerged out of the Quiet Revolution following the provincial election of 1960, at a time when Quebecois nationalism, especially among the Francophone population in Quebec, was on the rise. French Canadians made up only 28 percent of the Canadian population overall, yet they accounted for 80 percent of the population in the province of Quebec.<sup>26</sup> Nonetheless, Anglophones controlled 80 percent of Quebec's industry.<sup>27</sup> Young Francophones wanted change. The FLQ admired insurgent movements in the developing world, most notably in Algeria and Cuba. The victories in both of these struggles led the FLQ to believe that an armed insurrection was necessary for change in their own homeland. In addition, 17 African colonies had gained independence in 1960. Many young Quebecois saw their province as a colony also, and one but much better prepared for independence than its African counterparts.<sup>28</sup>

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<sup>26</sup> In the province of Quebec, Anglos only made up 10% of the population with other ethnic peoples comprising 10%. In the city of Montreal, 70 percent of the population was French Canadian. Frank L. Wilson, "French-Canadian Separatism," *The Western Political Quarterly* 20, no. 1 (March 1967), 117.

<sup>27</sup> Eleanor S. Wainstein, *The Cross and Laporte Kidnappings, Montreal, October 1970* (Santa Monica, CA: RAND, February 1977), 1.

<sup>28</sup> David A. Charters, "The Amateur Revolutionaries: A Reassessment of the FLQ," *Terrorism and Political Violence* 9, no. 1 (Spring 1997): French-Canadians felt as if they were a conquered nation, losing their culture and religion to Anglo domination. They also felt as if Quebec was an enclave surrounded by Anglo-Saxon Protestants in Wilson, "French-Canadian Separatism"

The FLQ initially formed in 1963 based on “traditional right wing nationalism,” and its main demand was the independence of Quebec.<sup>29</sup> By 1968, the organization had turned to the left, adding the goal of emancipating the working class. The group rejected the electoral route to create change, and instead, emphasized sowing the seeds of revolution through violence. In its first manifesto, published in 1963, the FLQ states: “Quebec’s independence is only possible through social revolution...students, workers, peasants, form your clandestine groups against Anglo-American colonialism.”<sup>30</sup> The primary aims of the FLQ were: (1) secession of Quebec from Canada, and (2) a socio-economic revolution to destroy British and American capitalism in Quebec. In essence, it viewed itself as the guardian of the proletariat as well as Quebecois nationalism.<sup>31</sup>

Organizationally, the FLQ resembled modern terrorist entities like Al Qaeda in that it provided a banner under which like-minded nationalists could unite, rather than a centralized hierarchical structure.<sup>32</sup> Moreover, as with Al Qaeda, not all member actions were coordinated through a central leadership. Instead, many terrorist cells formed under the nationalist standard without formally joining the FLQ; they became FLQ by association with the cause.<sup>33</sup> There is debate on the exact size and strength of the FLQ.<sup>34</sup> It often described itself as “a revolutionary movement made up of volunteers ready to die

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<sup>29</sup> Stephane Leman-Langlois and Jean-Paul Brodeur, "Terrorism Old and New: Counterterrorism in Canada," *Parameters* 6, no. 2 (May 2005), 129.

<sup>30</sup> Wainstein, *The Cross and Laporte Kidnappings*, Montreal, October 1970, 1.

<sup>31</sup> Albert Parry, *Terrorism: From Robespierre to Arafat* (New York: Vanguard Press, 1976), 365.

<sup>32</sup> The argument I am claiming is that just as many join Al Qaeda for a variety of reasons (hatred for the US, US out of the Middle East, or a preservation of culture), a similarity exists with the makeup of the FLQ. All the authors used for this research, with exception of Albert Parry, argue that the FLQ was void of a clear leadership and hierarchical structure. Therefore, any nationalists who resorted to terrorist actions were labeled as FLQ. Many called themselves FLQ as well to benefit from its name identity within Quebec.

<sup>33</sup> Peter Janke, ed., "Canada and the FLQ." In *Terrorism and Democracy: Some Contemporary Cases*, (New York: St. Martin's Press, 1992), 34.

<sup>34</sup> Laurendeau notes fifteen different networks identifying themselves as FLQ in Charters, "The Amateur Revolutionaries: A Reassessment of the FLQ."; RCMP estimate that there were 22 cells totaling 130 terrorists, and about 2000 sympathizers in Parry, *Terrorism: From Robespierre to Arafat*, 368. A 1970 government estimate stated 100 'trigger pullers,' 100 propagandists, 200-300 dealing with the infrastructure, and up to 3000 passive sympathizers in Sean M. Maloney, "A Mere Rustle of Leaves: Canadian Strategy and the 1970 FLQ Crisis," *Canadian Military Journal* (Summer 2000).

for the cause of political and economic independence for Quebec.”<sup>35</sup> Moreover, one cell’s members generally were unaware of other cells’ members, and as a result largely unable to combat the intense police informer system that infiltrated the organization.<sup>36</sup>

The FLQ was the most notable domestic terrorist organization in Canada’s history. Operating primarily from 1963 to 1972, its members killed seven, injured many others, carried out extensive attacks, stole dynamite and small arms, and robbed banks.<sup>37</sup> The FLQ carried out its first attack on the night of March 7, 1963, firebombing three Canadian Army barracks in Montreal. Additionally, the FLQ is known to have opened training camps, raided Militia armories to steal weaponry, targeted provincial and federal buildings, and infiltrated Government of Canada departments, including the Army. The attacks of the FLQ steadily progressed in size and sophistication, and it began to pursue targets outside of Quebec. A 1969 attack against the Montreal Stock Exchange was the most destructive terrorist bombing ever in Canada, injuring 27 in what the cell described as “a telling blow at the heart of the capitalist system.”<sup>38</sup> In 1970, the FLQ attacked the National Defense Headquarters in Ottawa. The escalation in violence was a precursor of a new stage of action for the group, the building of an insurgency. A 1970 analysis of the FLQ concluded that the organization was pursuing the five-stage Maoist revolutionary war doctrine, and had reached stage three.<sup>39</sup>

The most infamous period of FLQ violence consists of the dual kidnappings of a British diplomat and a Quebecois politician in what has become known as the October Crisis. The crisis actually lasted eighty-four days, the first fifteen of which were dire. It

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<sup>35</sup> Janke, “Canada and the FLQ,” 37.

<sup>36</sup> Janke, “Canada and the FLQ,” 38. Albert Parry is the lone dissenter to this argument. He claims that it was difficult for the police to infiltrate this group. The facts do not follow his conclusion based on literature and government responses to informers.

<sup>37</sup> Jeffrey Ian Ross, “The Rise and Fall of Quebecois Separatist Terrorism: A Qualitative Application of Factors from Two Models,” *Studies in Conflict and Terrorism* 18, (1995): 285. In 1963, the FLQ began its bombing campaign with 34 attacks. The next spike in activity was not until 1968-70 when the group launched 137 attacks. Following this was the October Crisis and kidnapping of diplomats. Sean M. Maloney, “Domestic Operations: The Canadian Approach,” *Parameters* (Autumn 1997).

<sup>38</sup> Louis Fournier, *F.L.Q.: The Anatomy of an Underground Movement*, trans. Edward Baxter (Toronto: NC Press Limited, 1984), 150.

<sup>39</sup> Maloney, “Domestic Operations: The Canadian Approach,” 4. It was believed that the FLQ was on stage 3 of 5 which was armed resistance.

began on October 5, 1970 with the kidnapping of James Richard Cross, the British Trade Commissioner in Montreal and continued with a second kidnapping of Pierre Laporte, the Deputy Premier and Minister of Employment and Immigration in the Quebec Liberal government on October 10, 1970. The primary aim of the kidnappings was “to paint a political image of the FLQ, oriented in particular toward the working class and toward revolutionary aspirations linking independence and socialism.”<sup>40</sup> The cell cleverly drew the government into a public debate by publishing their communiqués in media outlets rather than talking directly with government officials. This forced the government to address the political views of the FLQ.<sup>41</sup> Furthermore, it allowed their message to be broadcast nationwide, increasing popular support. The FLQ was successful in legitimizing itself as a political actor until the misstep of the second cell: its capture and subsequent murder of Pierre Laporte. The terrorists responsible believed the second kidnapping would strengthen their bargaining position, but it backfired, weakening public support. Moreover, it influenced the government decision to deploy troops to Quebec to counter the FLQ.

## **C. GOVERNMENT RESPONSE TO FLQ**

### **1. The Early Years: 1963 – 1969**

The government’s counter for the first seven years of the FLQ’s existence was standard civilian law enforcement. The three police forces in Quebec: City of Montreal Police, the Quebec Surete or provincial police, and the Royal Canadian Mounted Police (RCMP), were very successful against the early actions of the FLQ. In early 1964, the Montreal Combined Anti-Terrorist Squad (CATS) was formed from members of the three forces. This initial action was responsible for the breakup of several FLQ groups, a

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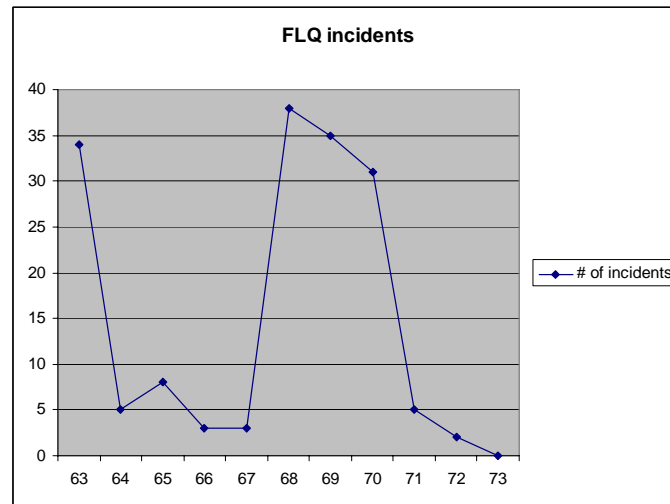
<sup>40</sup> Maloney, “Domestic Operations: The Canadian Approach,” 73.

<sup>41</sup> *Ibid.*, 73.



fund-raising cell, and a separatist group calling itself Armée Révolutionnaire du Québec.<sup>42</sup> Figure 2 below shows that after a spike in activity at the infancy of the FLQ, it was largely non-violent until 1968.

Figure 2. FLQ Terrorist Incidents (From: “Why Terrorism Subsides: A Comparative Study of Canada and the United States”)<sup>43</sup>



While the FLQ was not eliminated, the ensuing rise of violence does not necessarily imply failure. Jeffrey Ian Ross concludes in his research that the “nature and structure of the FLQ made it impossible to eliminate the group completely. It was as much a state of mind as an organization. Any group of dissatisfied Quebecois could carry out a bombing spree, a kidnapping, or murder in the name of the FLQ.”<sup>44</sup>

In addition to the police, the Army played a support role from the beginning stages of the revolutionary movement. While troops were not used in a direct law enforcement role, their influence was felt. From the initial stages of the FLQ movement, the Canadian Army and Air Force provided information to police forces. Additionally, the Army was successful in inserting a deep cover agent into several FLQ cells. A young

<sup>42</sup> Janke, “Canada and the FLQ,” 39.

<sup>43</sup> The exact number is a best approximation based on variety among secondary sources. Jeffrey Ian Ross and Ted Robert Gurr, “Why Terrorism Subsides: A Comparative Study of Canada and the United States.” *Comparative Politics* 21, no. 4 (July 1989), 411.

<sup>44</sup> *Ibid.*, 294.

soldier, Van Doos, used this experience to provide intelligence on the organization.<sup>45</sup> The actions of the Army helped set the stage for future deployment.

By 1969, the political situation in Quebec was taking a turn for the worse. The vast numbers of protestors at political demonstrations were overwhelming the local police. In March 1969, approximately 15,000 students at McGill University in Montreal, led by a FLQ affiliated Marxist professor, demanded it become a Francophone institution. A mechanized infantry battalion was requested under the Aid of the Civil Power statute to back up the police should the crowd turn violent, but was not required. Then in October 1969, Army troops deployed to the outskirts of Montreal following a FLQ-initiated labor strike. The Montreal Police Service was not immune to the effects of the strike, and had 3,000 of their 3,200 officers strike demanding higher pay. Finally, military units were put on alert following an October demonstration numbering 40,000 at the National Assembly in Quebec City.<sup>46</sup>

Worldwide, the 1960s saw an abundance of revolutionary activity. In Uruguay, Argentina, Bolivia, Spain, Northern Ireland, and even the United States terrorism was rampant. The actions of the FLQ indicated that a revolutionary movement was afoot in Canada as well. A 1969 Cabinet analysis, "Current Threats to National Order: Quebec Separatism," concluded that the government was ill prepared to counter separatists like the FLQ.<sup>47</sup> As a result, a new strategy was put together to pre-empt and deter the FLQ. It specifically ordered the Army to deploy immediately in the event of a crisis. The purpose of this deployment was to isolate FLQ members from the mainstream of political discourse, and encourage the uncommitted populace to remain uncommitted.<sup>48</sup>

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<sup>45</sup> Maloney, "A Mere Rustle of Leaves," 73.

<sup>46</sup> *Ibid.*, 74.

<sup>47</sup> Canadian Cabinet Committee on Security and Intelligence, "Current Threats to National Order," (December 17, 1969) in Maloney, "A Mere Rustle of Leaves," 76.

<sup>48</sup> *Ibid.*, 77.

## 2. The October Crisis

The deployment of Canadian forces to Quebec was necessary in October 1970 due to the level of political violence, and the inability of the police to effectively complete their jobs without support. The primary benefit of the military was to allow the police to conduct over 5,000 raids and arrest nearly 500 suspects by the end of 1970. Without the presence of the army to provide security, this would have been impossible. Additionally, the military presence provided a strong deterrent for any FLQ sympathizers wishing to use this opportunity to start an insurrection. Hence, Canadian armed forces performed an essential support role that enabled civilian law enforcement to capture and disrupt the FLQ.

At the onset of the October Crisis, Quebec police were stretched beyond their limits. Montreal Police Director Marcel St. Aubin called the FLQ “an extremely dangerous subversive movement aimed at the overthrow of the government through sedition and armed insurrection.”<sup>49</sup> Jean Drapeau, the Montreal mayor, exclaimed: “The revolution in Quebec is not in preparation, it is in full execution. The situation is dangerous. The population has no idea of the gravity of the moment. It eerily resembles revolutions in other countries.”<sup>50</sup> Finally, Quebec Premier commented: “After the events of the past few days, the energy of the police forces used for the protection of the population and its security has been considerably overtaxed.”<sup>51</sup> Loomis estimates that the civilian police presence reached more than 10,000 officers.<sup>52</sup> Still, the Provincial government of Quebec asserted that federal troops were necessary.

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<sup>49</sup> James Plussey Stewart, *The FLQ: Seven Years of Terrorism* (Montreal: The Montreal Star, 1970), 72.

<sup>50</sup> William Tetley, "Appendix D." In *The October Crisis, 1970: An Insider's View* (Montreal: McGill-Queens University Press, 2006), 12.

<sup>51</sup> Stewart, *The FLQ, Seven years of Terrorism*, 72.

<sup>52</sup> *Ibid.*, 144.

The federal government in Ottawa responded by invoking the War Measures Act for only the third time since World War I.<sup>53</sup> This allowed police extraordinary powers of arrest, search and seizure without warrants, and preventive detention of suspects for up to twenty-one days without charges, ninety days without a trial date.<sup>54</sup> More importantly, it provided the legal framework to “federalize” and unify the anti-FLQ strategy. As a result, approximately 12,500 Canadian Forces troops deployed.<sup>55</sup> Military troops were deployed as part of Operation Ginger on October 12, 1970, marking the first ever use of troops in Canada during peacetime. They were tasked to secure federal government buildings in Ottawa, provide armed escort to government officials, and act as a quick reaction force. Operation Essay began on October 16, with deployment into Quebec as a massive show of force to the citizens of the city. Their primary duties included vital point protection, search and cordon operations, and assistance to Quebec provincial police in tracking down FLQ members.<sup>56</sup> Perhaps their greatest function was to act as a deterrent against insurrection for uncommitted political forces. Trudeau was prepared to take any and all measures to prevent an insurrection. In a broadcast to the nation, he exclaimed:

There are a lot of bleeding hearts around who can't stand the sight of people with helmets and guns. All I can say is: *Go on and bleed*. But it's more important to maintain law and order in society than to worry about weak-kneed people who don't like the looks of an army...Society must use every means at its disposal to defend itself against the emergence of a parallel power which defies the elected power in this country, and I think that goes to any distance. So long as there is a power which is challenging

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<sup>53</sup> The previous two were in World War I and World War II in response to international war concerns. Moreover, Trudeau had anticipated emergency measures as early as May 1970. He established a special inter-ministerial committee chaired by the deputy Minister of Justice, Donald Maxwell, to develop a plan on law and order in response to the FLQ.<sup>53</sup> This committee questioned what steps should be taken if the War Measures Act was invoked to quell an insurrection. Furthermore, they evaluated the use of the Canadian Army and the Royal Canadian Mounted Police (RCMP) in maintaining law and order.

<sup>54</sup> Ronald D. Crelinstein, "The Internal Dynamics of the FLQ during the October Crisis of 1970." in *Inside Terrorist Organizations*, ed. David C. Rapoport (New York: Columbia University Press, 1988), 63.

<sup>55</sup> Operation Essay refers to the Aid to Civil Power military deployment to Quebec. Operation Ginger was a deployment at the request of the Prime Minister and did not fall under the Aid to Civil Power provisions. It placed troops in the Ottawa region for government personnel and building protection.

<sup>56</sup> Eric Lerhe, "Civil Military Relations and Aid to the Civil Power in Canada: Implications for the War on Terror" (paper presented at Royal Military College, October 29-30, 2004), 10.

the elected representatives of the people, then I think that power must be stopped and I think it's only, I repeat, weak-kneed bleeding hearts who are afraid to take these measures.<sup>57</sup>

The use of the Army during the October Crisis provided great assistance to the police in capturing FLQ members, but analysis shows that Canadian Forces played only a support role. Civilian law enforcement was responsible for eliminating the FLQ as a threat. With the assistance of the Army, police forces raided every part of Quebec, destabilizing progressive forces of the FLQ.<sup>58</sup> Troops facilitated government raids by providing a cordon for the police. Between October 16 and November 24, the combined force conducted 3,068 raids and arrested 453 suspects.<sup>59</sup> The police required assistance in countering street demonstrations, reacting to bomb threats, and providing security. This put great strain on their available labor force of 10,000. In addition, the police actively pursued not only the FLQ, but also any insurgent threat. Maurice Saint-Pierre, the Director of the Quebec Provincial Police commented:

Under these circumstances, the investigation which the police authorities must undertake must necessarily delve into all aspects of the activities of the networks of this seditious movement, and should not be restricted to simply searching for the individuals who perpetrated the odious kidnapping of the two people who are still prisoners—for this would mean failure.<sup>60</sup>

The civilian police had employed the tactic of inserting police informants into the FLQ since the mid-1960s. With information from these sources they pieced together suspect lists. Additionally, they investigated every piece of intelligence from the public. A defining moment leading to the end of the October Crisis was the rescue of the British diplomat James Cross in early December 1970. The Montreal CATS is credited with finding the kidnappers through standard police work.<sup>61</sup> While diligent in their investigation, bomb hoaxes and bogus FLQ sightings overwhelmed the Montreal police

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<sup>57</sup> Janke, "Canada and the FLQ," 53. Emphasis added

<sup>58</sup> Fournier, *F.L.Q.: The Anatomy of an Underground Movement*, 247.

<sup>59</sup> Parry, *Terrorism: From Robespierre to Arafat*, 374.

<sup>60</sup> Wainstein, *The Cross and Laporte kidnappings, Montreal, October 1970*, 52.

<sup>61</sup> Parry, *Terrorism: From Robespierre to Arafat*, 372-374.

forces. Hence, the great value of the military forces was the addition of personnel to allow the police to effectively complete their job. Under the authority of the Quebec Provincial Police, the Army was placed in a high profile, yet low-impact role. It was very visible to the populace at large, but not involved in arrests, interrogation, or confrontation with the public.

### 3. Problems with Army Deployment

Despite the success in eliminating the FLQ, the deployment was not without problems. D.G. Loomis estimates that except for one infantry battalion and one armored regiment, the entire army and tactical air force in Canada was deployed in a show of force.<sup>62</sup> In order to accomplish this, Mobile Command had to make use of combat troops already committed to other tasks.<sup>63</sup> In effect, Canada was stripped of a combat ready military. Mobile Command troops trained for NATO defense in Europe.<sup>64</sup> As a result, they were ill prepared to fight a domestic insurgency. They did not understand their ‘enemy’ and deployed using techniques of conventional rather than guerrilla warfare. In effect, they fought as they trained, using the tactics of high-intensity warfare, which tends to affect the populace more than the insurgents. Hence, the populace is likely to become sympathetic to the terrorist cause.<sup>65</sup> A military deployment, as a show of force, can stimulate more violence.<sup>66</sup> This is due to the perception of federal oppression of the Quebec population calling for change. Recall that a primary quarrel of the FLQ was the perception of federal repression of the Francophone population. Further, the Army’s only similar experience was as a peacekeeping force on the island of Cyprus. Yet, that operation resembled conventional more than guerrilla warfare. Hence, Canadian Forces were not trained, or skilled in counter-terrorist tactics.

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<sup>62</sup> Loomis, *Not Much Glory: Quelling the F.L.Q.*, 142.

<sup>63</sup> Maloney, “A Mere Rustle of Leaves,” 78.

<sup>64</sup> Loomis, *Not Much Glory: Quelling the F.L.Q.*, 15.

<sup>65</sup> The populace of Quebec was initially sympathetic to the FLQ following the publication of the manifesto. Multiple events in support of the FLQ took place. This support was withdrawn following the murder of Laporte. Should this event not have happened, the massive Army presence could have led to increased support for the FLQ.

<sup>66</sup> *Ibid.*, 79.

Furthermore, the reserve force (Militia) had been completely gutted in the late 1950s and was unable to provide troops. This caused Mobile Command to use all active duty troops in Operations Ginger and Essay, each of which had a different civilian component in charge, the RCMP for Operation Ginger and the Quebec Provincial Police for Operation Essay. Hence, different rules of engagement existed, which led to confusion among the troops.<sup>67</sup> The Vice Chief of Defense Staff was forced to conduct the operations with great flexibility in order to account for the October Crisis, and simultaneously fulfill Canada's international commitments.<sup>68</sup>

The lack of joint training between Canadian Forces and civilian police was evident soon after deployment. In addition, there were no established procedures for interaction between military and civilian intelligence services.<sup>69</sup> The Regional Direction Centre was in a state of confusion dealing with the added military units. With the importance that coordination of effort and centralized control play in reacting to a threat, this produced significant problems. Intelligence did not flow from the field to the Centre, and to the police in a smooth fashion. This was a result of problems in how to react to new information.

The area of greatest concern for the Army was its lack of preparation, which resulted from the absence of a Mobile Command plan for internal security operation. Crowd and riot control in support of police was a stated secondary mission of the Army, but procedures were unclear to the soldiers. For instance, some infantry units were supplied with old British imperial policing manuals that detailed the use of whips against demonstrators. A brigade commander commented that the lack of clear riot control doctrine would have probably resulted in deaths had the troops been confronted by angry protestors.<sup>70</sup> Additionally, the Army was unaware of how many personnel were necessary at individual sites for vital point protection. Military forces protected 107 different locations across Quebec and Ottawa, stretching logistics, communication, and

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<sup>67</sup> Lerhe, "Civil Military Relations and Aid to the Civil Power in Canada," 10.

<sup>68</sup> Maloney, "A Mere Rustle of Leaves," 79.

<sup>69</sup> *Ibid.*, 81.

<sup>70</sup> Maloney, "A Mere Rustle of Leaves," 82.

support to those units.<sup>71</sup> The police also asked the military to provide an Immediate Reaction Force to react to FLQ related intelligence. This mission further strained the Army and was another for which it was ill prepared. Tactical training for these troops was conducted ‘on the job’ and while conducting cordon missions in support of the police.

Besides the deficiencies of using the Army in a role it is not suited for, the massive show of force actually may have been counterproductive. Secretary of State Gerard Pelletier expressed concern that the deployment made it look as if Canada was facing a foreign army, and warned that the government should be careful “not to elevate the prestige of the FLQ unnecessarily.”<sup>72</sup> The FLQ achieved a great victory due to the Army deployment. Despite losing in their struggle, they were successful in elevating their cause to the international arena. The lasting image of the October Crisis is not the kidnapping of two politicians, or even the murder of Laporte. What is, and will always be remembered are thousands of Canadian troops on the streets during peacetime.<sup>73</sup> This symbolizes the repression of the Francophone community more than any other factor. In fact, in one poll Quebecois believed they were more at risk from security personnel than the FLQ by a 37% to 24% margin.<sup>74</sup> The use of military troops in a law enforcement role is risky, and should only be utilized as a last resort.

#### **4. Lessons Learned**

The FLQ case is one of the few in Western democracies in which the government response successfully eliminated its target, and civil liberties were not severely affected. It thus provides several useful lessons for policymakers considering the use military in a law enforcement capacity.

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<sup>71</sup> Maloney, “A Mere Rustle of Leaves,” 80.

<sup>72</sup> Charters, “The Amateur Revolutionaries,”

<sup>73</sup> Ibid., 163.

<sup>74</sup> Michael Freeman, *Freedom Or Security: The Consequences for Democracies using Emergency Powers to Fight Terror* (Westport, Connecticut: Praeger, 2003), 130-135.



- Military forces can play an effective and useful supporting role to civilian law enforcement.

The use of Canadian Forces during the October Crisis provided a variety of military assets that proved useful in supporting the police. For instance, the military used a variety of reconnaissance aircraft equipped with photo and Sideways Looking Aperture Radar (SLAR) technology to scout rural countryside where the FLQ was known to have training camps and safe houses.<sup>75</sup> The ability to quickly search an area and produce intelligence was invaluable in the hunt for FLQ members. Additionally, the police tasked the military to provide Immediate Reaction Forces. Using Special Operations troops and Huey helicopters, the military was able to assist the police with a quick reaction based on intelligence. Finally, the military has a large number of personnel. In the October Crisis, the police were overwhelmed and frightened in the face of escalating political violence.<sup>76</sup> The reassurance of superior numbers allowed the police to complete their investigation and halt the momentum of the FLQ.

- Military troops should be used in missions for which they are trained.

The military provided troops to protect government buildings and officials in a vital point security role. Because this required little interaction with the population, this was a good role for military troops. Canadian Forces senior leaders continuously emphasized good relations with the public. One IRF commander said, “The worst thing that we could do was shoot somebody.”<sup>77</sup> On the other hand, the military was not adequately prepared for all of the missions it was assigned. It lacked an internal security plan, and had no clear rules governing riot control. If military troops are used in close conjunction with civilians, then they must have sufficient training. Otherwise, the military will fall back on its instruction for high intensity warfare, which is not suited towards law enforcement.

- Intelligence must be a crucial aspect of any operation.

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<sup>75</sup> Maloney, “A Mere Rustle of Leaves,” 80.

<sup>76</sup> Maloney, “Domestic Operations,” 15.

<sup>77</sup> Maloney, “A Mere Rustle of Leaves,” 81.

Many analysts consider the military deployment an overreaction based on faulty intelligence.<sup>78</sup> The police failed to maintain accurate records on the FLQ despite successfully infiltrating them in the early 1960s. As a result, they overestimated the size of the FLQ. In the aftermath of the October Crisis, police found the FLQ was not more than perhaps a few dozen cells at most.<sup>79</sup> This emphasizes the value of intelligence prior to an event. Not only is it essential during an operation, but complete and accurate intelligence can prevent a situation from developing. Conversely, the police made great use of intelligence during the Crisis. Interactions with the military enabled the police to gain information on the FLQ through surveillance and reconnaissance assets. This proved to help the police locate the kidnappers and free James Cross. Finally, the police succeeded in using informants to penetrate the FLQ, which served to precipitate their downfall.

## **D. CONCLUSIONS**

### **1. Effectiveness of Law Enforcement Strategies**

The FLQ was halted by normal civilian policing activities. The actions of the Canadian Forces served in a powerful, yet supporting role. Due to the growing political unrest, the deployment of military troops was necessary. Since they were utilized in a low impact role, their presence was able to serve as a deterrent effect. By providing a massive show of force, potential supporters remained uncommitted to the insurrection. Therefore, this case study shows that the civilian police forces were responsible for ending the political unrest associated with the October Crisis, and hence were effective in their law enforcement capacity. The use of the military was not more effective than their civilian counterparts, but instead, enhanced the effectiveness of the police. In effect, they acted as a force multiplier for the police.

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<sup>78</sup> Leman-Langlois and Brodeur, "Terrorism Old and New," 136.

<sup>79</sup> Marcel Rioux, *Quebec in Question*, trans. James Boake (Toronto: James Lewis & Samuel, 1971), 176.

This case study also reveals that Canadian Forces were not prepared for a law enforcement role. Due to their lack of training and preparatory planning, the Army faced uncertainty in how to perform their mission. Fortunately, for the government, the Army behaved well while amongst the population. Yet, it could have been substantially worse.

## **2. Application to Posse Comitatus Act**

The Canadian example represents a success against domestic terrorism. The use of the military enhanced civilian police. Therefore, this case provides valuable lessons to apply to the use of military troops in a domestic counterterrorism role. Canada worked within the confines of its laws to deploy troops. Provisions for the use of troops in domestic operations were allowed under their laws prior to 1988. One condition included disturbance of the peace. In these instances, a provincial premier could request federal assistance in “Aid of the Civil Power” in the event “a riot or disturbance of the peace, beyond the powers of the civil authorities to suppress, prevent or deal with.”<sup>80</sup> This action was used for Operation Essay. In addition, the War Measures Act allowed the Governor in Council to deploy the military as “he deem[s] necessary or advisable for the security, defense, peace, order, and welfare of Canada.”<sup>81</sup>

In the United States, Governors and the President are given sufficient flexibility within the confines of the law to deploy military troops if deemed necessary. Further, the President can federalize National Guard troops without the request of a state’s Governor in an emergency. As such, this case suggests that the Posse Comitatus Act does not need to be changed from its present form.

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<sup>80</sup> Maloney, “Domestic Operations,” 3.

<sup>81</sup> Ibid., full text of the War Measures Act is located in Appendix 2.

### III. “THE TROUBLES” IN NORTHERN IRELAND

#### A. INTRODUCTION

This chapter addresses the employment of both military troops and civilian police, the Royal Ulster Constabulary (RUC), in a law enforcement role during “The Troubles” period in Northern Ireland.<sup>82</sup> This case contrasts with the Canadian case in that the government was unsuccessful in effectively countering the Irish Republican Army (IRA). Following particularly fierce sectarian violence between Catholics and Protestants, the British military entered Ulster under the Military Aid to Civil Authority mandate. The initial period of action, from 1969 – 1977, represented military primacy for policing operations. Conversely, police primacy reigned from 1977 until the recent withdrawal of troops on July 31, 2007.<sup>83</sup> Neither the police, nor the Army achieved victory over terrorism. Instead, the government assigned the primary role of law enforcement first to the Army and then to police, with very limited success in both cases. This chapter argues that the government failure against terrorism is a result of the incorrect roles given to both the police and the military. Had the Army maintained its support to the police role, this likely would have facilitated more effective policing by the RUC, while limiting the negative consequences associated with its deployment.

The chapter is divided into three sections. The first provides background information on “The Troubles,” and a brief description of the IRA. Next, the government response to the sectarian violence and subsequent terrorism is analyzed. This section primarily focuses on the mistakes made by the British Army, and how these errors exacerbated the situation. Further, it evaluates the internal improvements to the RUC

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<sup>82</sup> “The Troubles” period analyzed consists of the initiation of sectarian violence in the late 1960s until the Belfast Agreement on April 10, 1988.

<sup>83</sup> Ralf Sotscheck, “British Military Leaves Northern Ireland,” *Spiegel Online International*, July 31, 2007, <http://www.spiegel.de/international/europe/0,1518,497440,00.html> (accessed October 15, 2007).

during the early 1970s. Finally, the chapter concludes that the case demonstrates that the unique characteristics of military forces are best utilized in a support to civilian police, rather than in a lead law enforcement role.

## **B. BACKGROUND**

“The Troubles” describes two particularly violent periods in Ireland and Northern Ireland during the twentieth century. The first took place from 1919-1921 and generally refers to the Irish War of Independence. This chapter focuses on the second period beginning in the late 1960s and examines the sectarian violence between Republican and Loyalist paramilitaries, and the terrorist actions of the Irish Republican Army (IRA) against British government forces.<sup>84</sup> Conflict in Ireland, between the English and Irish, dates back to the twelfth century. The British established a settlement at Ulster in 1609. The British Crown confiscated native lands and redistributed them to mostly Protestant English and Scottish settlers. This led to two bloody sectarian conflicts, the Irish Confederate Wars (1641-1653) and the Williamite War (1689-1691). Unfavorable economic policies toward the Irish continued to antagonize relations throughout the eighteenth century, but attempts to increase the rights of Irish Catholics began only in the nineteenth century. The Irish War for Independence culminated in the Anglo-Irish Treaty of 1921 creating a Free Ireland on most of the island, while maintaining a Northern Ireland loyal to the British Crown. The term IRA gained popularity in its modern sense during the Easter uprising and battle for the Irish republic in 1919. It referred at that time to the rebel forces that made up the volunteer Irish Army in the Irish War for Independence, engaging in a guerrilla war against Britain from 1919 until July 1921. Following the signing of the Anglo-Irish Treaty, the IRA represented those opposed to the division of the Irish Republic.<sup>85</sup>

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<sup>84</sup> The Catholic minority in Northern Ireland is generally referred to as either Republican or Nationalists, while the Protestant majorities are described as Loyalists or Unionists. These terms are used interchangeably in this paper when referring to Catholic or Protestant communities.

<sup>85</sup> John Darby, “Conflict in Northern Ireland: A Background Essay,” in *Facets of the Conflict in Northern Ireland*, ed. Seamus Dunn (Hampshire, England: Macmillan Press, Ltd), <http://cain.ulst.ac.uk/othelem/facets.htm> (accessed November 14, 2007).

Figure 3. Map of Northern Ireland (From: iTraveluk.co.uk)<sup>86</sup>



The resulting state of Northern Ireland included a Protestant majority and Catholic minority, but Protestants feared a reversal of fortunes due to the rapidly growing Catholic population. The Religion Reports of Northern Ireland Census projected that in 1961 the Catholic population made up 35.3 percent of the total inhabitants, and increased to 36.8 percent by 1971.<sup>87</sup> They also believed that Catholics were innately disloyal, and systematically abused them.<sup>88</sup> A 1966-67 survey showed only 18 percent of Protestants

<sup>86</sup> iTraveluk.co.uk, "Ireland map," <http://www.itraveluk.co.uk/maps/ireland.html> (accessed November 14, 2007).

<sup>87</sup> CAIN Web Service, "Background Information on Northern Ireland Society – Population and Vital Statistics," <http://cain.ulst.ac.uk/ni/popul.htm#cath> (accessed November 9, 2007)

<sup>88</sup> Tom Baldy, *Battle for Ulster* (Washington, DC: National Defense University Press, 1987), 44.

felt the Catholic community was “treated unfairly,” contrasted to 74 percent of Catholics polled.<sup>89</sup> After five decades of discrimination against Catholics by the Stormont<sup>90</sup> government in Northern Ireland, the Northern Ireland Civil Rights Association (NICRA) formed in 1967 to address perceived grievances in electoral processes, education, employment, housing, and policing against the Catholic population. It organized public street protests, seeking to emulate the successes of the U.S. civil rights action ongoing at the time. Loyalists saw the civil rights campaign as a terrorist cover, seeking to destroy the state of Northern Ireland rather than reform it.<sup>91</sup> As a result, Loyalist paramilitary groups launched their own campaigns against Nationalists to maintain the British character of Northern Ireland.

With the reemergence of sectarian violence in 1969, the IRA split into the Official IRA (OIRA) and the Provisional IRA (PIRA) due to differences in how best to achieve the IRA’s goals. The PIRA accounted for the majority of the terrorist conflict from the Catholic community.<sup>92</sup> Its stated aim was the withdrawal of British military and government from Northern Ireland and the merging of the thirty-two counties into an all-Irish republic. The goals of the PIRA were succinctly summed up in *An Phoblacht*, also known as the *Sinn Fein Weekly*.

To end foreign rule in Ireland, to establish a 32-county Democratic Socialist Republic, based on the Proclamation of 1916, to restore the Irish language and culture to a position of strength, and to promote a social order based on justice and Christian principles which will give everyone a just share of the nation’s wealth.<sup>93</sup>

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<sup>89</sup> Ronald Weitzer, *Transforming Settler States: Communal Conflict and Internal Security in Northern Ireland and Zimbabwe* (Berkeley, CA: University of California Press, 1990), 114.

<sup>90</sup> Stormont refers to the government in Northern Ireland while Westminster refers to the government in London, England. The name refers to the area the government is located in, and will be used throughout the paper when referring to the Northern Ireland or British governments.

<sup>91</sup> CAIN Web Service, “The Civil Rights Campaign – Summary of Main Events,” <http://www.cain.ulst.ac.uk/events/crights/sum.htm> (accessed September 19, 2007).

<sup>92</sup> The terrorist violence discussed in this chapter is primarily associated with the PIRA. Often the term IRA is used when referring to the PIRA during “The Troubles,” but the correct usage is PIRA since a split divided the IRA into the OIRA and the PIRA.

<sup>93</sup> Baldy, *Battle for Ulster*, 52.

Additionally, the PIRA's Green Book, a training and induction manual, describes the strategy as: (1) a war of attrition against enemy personnel aimed at causing as many casualties and deaths as possible so as to create a demand from their people for their withdrawal; (2) bombing campaign aimed at making the enemy's financial interest in Northern Ireland unprofitable while at the same time curbing long term financial investment in the province; (3) make the Six Counties as at present and for the past several years ungovernable except by colonial military rule; (4) to sustain the war and gain support for its ends by national and international propaganda and publicity campaigns; (5) by defending the war of liberation by punishing criminals, collaborators, and informers.<sup>94</sup>

Figure 4. Republican mural in Derry (From: CAIN Web Service)<sup>95</sup>



The PIRA formed in reaction to the OIRA's failure to protect Catholic communities in Northern Ireland. In addition to the defense of its people, it wanted the British out of Northern Ireland, but was unable to achieve this goal while the Army had the support of the population. Therefore, it employed a tactic of provoking British troops into over-reaction against Catholics to shift public sympathies towards themselves.<sup>96</sup> The

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<sup>94</sup> CAIN Web Service, "Key Issues – Violence in Northern Ireland," <http://cain.ulst.ac.uk/issues/violence/violence.htm> (accessed November 6, 2007).

<sup>95</sup> CAIN Web Service, "Political Wall Murals in Northern Ireland," <http://cain.ulst.ac.uk/murals/index.html> (accessed November 14, 2007).

<sup>96</sup> Rod Thornton, "Getting it Wrong: The Crucial Mistakes made in the Early Stages of the British Army's Deployment to Northern Ireland (August 1969 to March 1972)." *The Journal of Strategic Studies* 30, no. 1 (February 1, 2007): 81.



PIRA's incitement of incidents was successful in undermining the credibility of the British, while the security policies adopted by the British Army confirmed Catholic perceptions of government injustice.<sup>97</sup>

## C. GOVERNMENT RESPONSE

### 1. Preliminary Failure of Police and Deployment of the Army

The sectarian nature of "The Troubles" was as evident in the RUC as in the two warring communities. Since the birth of the RUC following the partition of Ireland, the police force had been politicized, with a very strong Unionist leaning. Approximately 90 percent Protestant in its composition, officers saw themselves as the "guardians of abiding Protestant interests."<sup>98</sup> In effect, the RUC lacked professionalism due to their sectarian makeup. As such, the police were closely linked to the Unionist Stormont government, and regularly resorted to brutality against members of the Catholic community. Nationalist marches for equal rights were consistently met with police violence.<sup>99</sup>

"The Troubles" began with a riot that broke out in response to an RUC attempt to disperse Nationalist crowds protesting an Apprentice Boys of Derry march past the Bogside city walls.<sup>100</sup> Protestants were allowed to march, while Catholics were not. This was not the first clash between the RUC, Catholic and Protestant demonstrators, but it was the first time police were unable to quell the violence. This incident, which became known as the Battle of the Bogside, occurred August 12-14, 1969.<sup>101</sup> Three

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<sup>97</sup> Baldy, *Battle for Ulster*, 54.

<sup>98</sup> Ronald Weitzer, "Policing in a Divided Society: Obstacles to Normalization in Northern Ireland," *Social Problems* 33, no. 1. (October 1985): 41.

<sup>99</sup> Jim Smyth "Policing Ireland," *Capital & Class* 69 (Autumn 1999): 114; Weitzer, "Policing in a Divided Society," 41; Bruce Hoffman and Jennifer Morrison Taw, *A Strategic Framework for Countering Terrorism and Insurgency*, (Santa Monica, CA: RAND), 87-90; Peter Taylor, *BRITS: The War Against the IRA* (London: Bloomsbury Publishing Place, 2001), 22.

<sup>100</sup> The Apprentice Boys are a Protestant Fraternal organization that celebrates the defeat of Catholic James II of England siege of Derry in 1688-89.

<sup>101</sup> David Benest, "Aden to Northern Ireland, 1966-76." In *Big Wars and Small Wars: The British Army and the Lessons of War in the Twentieth Century*, ed. by Hew Strachan (London: Routledge, 2006), 128.

thousand RUC officers and 8,500 B-Specials, or Ulster Special Constabulary, proved inadequate to suppress the disturbances.<sup>102</sup> Following 10 deaths and 1,600 injuries (800 being RUC), the Stormont government reluctantly requested reinforcements from the British Army to maintain law and order. The RUC chief constable accepted that the police had inadequate numbers and were incapable of managing the situation alone.<sup>103</sup>

British troops entered Northern Ireland under Military Aid to Civil Authority provisions on August 15, 1969 at the behest of the Stormont government and the RUC Chief Constable. At this stage in the conflict, the deployment of military troops was necessary, largely because of the overwhelmingly negative perception of the RUC among the Catholic community and their lack of enough personnel to suppress the rioting. The Army's purpose was not only to help restore law and order, but also to protect the Catholic community from Protestant mobs and the RUC. As such, the Army was initially welcomed into Ulster, "much like the troops who arrived to liberate Paris in 1944."<sup>104</sup>

Both Stormont and Westminster expected the stay to be short. One government spokesperson announced, "Troops would be back in barracks by the weekend."<sup>105</sup> The Home Secretary, James Callaghan told Westminster MPs: "The General Officer Commanding Northern Ireland has been instructed to take all necessary steps, acting impartially between citizen and citizen, to restore law and order. Troops will be withdrawn as soon as this is accomplished. This is a limited operation."<sup>106</sup>

Yet, Westminster mistrusted the Stormont government, fearing it would use the Army to promote Unionist interests at the expense of the Catholic population. As a result, the support to Civil Authority condition under which the Army deployed was ignored, and London insisted on military primacy for law and order, giving the RUC a

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<sup>102</sup> B-Specials were part of an auxiliary, part-time police force, comprised mostly of Protestants. Catholics perceived the RUC and B-Specials as sectarian forces used to put down the Catholic minority.

<sup>103</sup> Desmond Hamill, *Pig in the Middle: The Army in Northern Ireland 1969-1984* (London: Methuen, 1985), 15-18.

<sup>104</sup> Martin Dillon, *The Dirty War* (London: Arrow, 1991), 26.

<sup>105</sup> Thornton, "Getting it Wrong," 74.

<sup>106</sup> Hamill, *Pig in the Middle*, 7.

secondary status.<sup>107</sup> On August 19, General Sir Ian Freeland assumed control of all forces in Northern Ireland, including the RUC and B-Specials. The mandate to provide military aid to civil authorities disintegrated before it began. The Army was not prepared for this primary role. One RUC inspector noted, “The soldiers are doing a job we can’t do, but you can’t make a police force from an army or an army into a police force.”<sup>108</sup>

## 2. Army Failures: The Period of Military Primacy

The Conservative Party and its Prime Minister Edward Heath felt a military victory was possible. Hence, soldiers were given a “relatively free hand to use force against suspects and uncooperative citizens.”<sup>109</sup> The military adhered to its conventional warfare doctrine and sought control over the disputed area. This placed troops primarily in Catholic working-class communities. In order to achieve domination over the area, the Army relied on the repressive methods that had proved a failure for the RUC.<sup>110</sup> In the words of one ex-Army Captain, the military did not “have hang-ups about using force of the most vicious kind whenever possible.”<sup>111</sup> Furthermore, Weitzer argues that soldiers’ frustration promoted indiscriminate violence upon the Catholic population and civilian harassment became normal.<sup>112</sup> The Army’s tactics promoted widespread support for the paramilitary IRA, which came to be viewed as the defender of the Catholic community, facilitating the growth of IRA terrorism.

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<sup>107</sup> The RUC were relieved of their policing role in Ulster to a large extent. They were removed from Catholic communities, and any other areas considered violent. Instead, they were left to police relatively calm Protestant areas. The military had primacy over law enforcement in Ulster from 1969-1977 when “The Way Ahead,” and “Ulsterization” took precedence. Ian McKenzie, “Policing in a Divided Society: A Study of Part-Time Policing in Northern Ireland.” *The British Journal of Criminology* 37, no. 1 (Winter 1997).

<sup>108</sup> W. H. Van Voris, *Violence in Ulster: An Oral Documentary* (Amherst, Mass: University of Massachusetts Press, 1975), 171.

<sup>109</sup> Weitzer, “Policing a Divided Society,” 41.

<sup>110</sup> Weitzer, “Policing a Divided Society”; Baldy, *Battle for Ulster*; Weitzer, *Transforming Settler States*.

<sup>111</sup> Ronald Weitzer, *Transforming Settler States: Communal Conflict and Internal Security in Northern Ireland and Zimbabwe* (Berkeley, CA: University of California Press, 1990), 205.

<sup>112</sup> *Ibid.*

The Army's preparation, training, heavy-handed tactics, and use of intelligence all contributed to its ineffectiveness in the law enforcement mission. According to Deane-Drummond:

The change in role from conventional military operations to internal security and paramilitary duties [requires] ... [i]ntense, and time-consuming periods of training ... to prepare troops tactically and psychologically for a role which although less lethal in terms of overall casualties than conventional war, is equally demanding and stressful.<sup>113</sup>

At the onset of "The Troubles," the British military had only 3,000 troops stationed in Northern Ireland, which was considered a relatively easy assignment. Longstanding British policy considered the police as a "superior mediator in situations of conflict."<sup>114</sup> As a whole, the Army was unfamiliar with Irish frustrations, or the sectarian geography of the cities.<sup>115</sup> They had no police training upon entering into their deployment, because they never expected it. As such, they were altogether unprepared to take over the law enforcement role. One senior Army commander exclaimed: "Pre-planning! You must remember that the government's policy was to have the Army out only in the very worst situation. The Stormont government and the Royal Ulster Constabulary did not want us in."<sup>116</sup> Hence, troops were unprepared for a peace support mission, and relied instead upon standard conventional tactics to gain control over territory and the population. This alienated the Catholic community, and thus precipitated their failure.

A prime example is the Lower Falls curfew.<sup>117</sup> Soldiers, acting on tips, conducted warrant-less house inspections in search of illegal weapons. The disarmament

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<sup>113</sup> James Salt and M. L. R. Smith. "Reassessing Military Assistance to the Civil Powers: Are Traditional British Anti-Terrorist Responses Still Effective?" *Low Intensity Conflict & Law Enforcement* 13, no. 3 (Winter 2005). 246.

<sup>114</sup> Peter R. Neumann, "The Myth of Ulsterization in British Security Policy in Northern Ireland," *Studies in Conflict & Terrorism* 26 (2003), 369.

<sup>115</sup> Hamill, *Pig in the Middle*, 15.

<sup>116</sup> *Ibid.*, 21.

<sup>117</sup> The Lower Falls curfew took place on July 3, 1970 following an incident where the Catholic Short Strand section of Belfast was attacked by Protestant mobs and the Army failed to protect them due to lack of troops. The PIRA took over defensive actions, shooting dead six Protestants, in lieu of the Army failure.

operation, in the context of its inability to protect Catholic communities, led to rioting and the first instance of the PIRA firing into the British military.<sup>118</sup> After firing 1,600 canisters of CS gas into the crowds, General Officer Commanding (GOC) Freeland imposed a 35-hour curfew on the Catholic community in order to retake control from the rioting mob, without permission from any civilian authority. During this period, the Army undertook often-violent blanket house searches of the entire neighborhood. The Catholic community saw the searches as a sign of domination, meant to punish them.<sup>119</sup> Following the curfew, Northern Ireland Prime Minister Chichester-Clark remarked that the Lower Falls operation

inevitably made for much worse relations with the Catholic population and the army. The trouble is that there's a hell of a lot of Catholic in the Lower Falls who don't want anything to do with any of the rioting or shooting or anything else. And of course they suffered and they became allies of the IRA. The army started that operation without reference to anybody, certainly without reference to us.<sup>120</sup>

The Army went on to embed itself into the life of Derry in order to take freedom of maneuver away from the terrorists.<sup>121</sup> It established boys' clubs and enacted 'keep-fit' sessions in order to remove young males from the streets. Its actions sought to garner the support of the local population, but instead increased contact with civilians all too often led to conflict.<sup>122</sup> The Army established 'peace-rings,' consisting of barriers and checkpoints, to separate the Catholic and Protestant communities. This destabilized relations by limiting freedom of movement and isolating Catholics from city activities. Military tactic aimed at gaining control over territory did more to provide support for the PIRA than achieve law and order.

The British Army continued to demonstrate its lack of training in riot control situations. Their first major incident occurred during the Easter riots of March 1970 near

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<sup>118</sup> Thornton, "Getting it Wrong," 86.

<sup>119</sup> Ibid., 87.

<sup>120</sup> Van Voris, *Violence in Ulster*, 183-184.

<sup>121</sup> Niall O Dochartaigh, "The British Army." in *From Civil Rights to Armalites: Derry and the Birth of the Irish Troubles* (Cork, Ireland: Cork University Press, 1997), 13.

<sup>122</sup> Ibid., 13.

Ballymurphy in Belfast. During marching season, the mission of the Army was to separate the Protestant and Catholic demonstrators in order to curtail the violence. British minimalist force doctrine stated that soldiers, or police, should use no more force than absolutely necessary to restore peace.<sup>123</sup> Yet, soldiers acted aggressively by facing toward Catholic neighborhoods that Protestant protestors marched through, suggesting that the larger Protestant mob needed protection. In the ensuing melee, troops indiscriminately fired CS canisters into the Catholic crowds. The riots lasted for four days and exposed the Army as a destructive force. This incident led Catholics to establish “no-go” areas consisting of barricades to keep out Protestant mobs, and the Army.<sup>124</sup> The Sunday Times in Ulster commented:

The Army never grasped how radicalizing in its effect CS was; but that first Ballymurphy riot—when they fired 104 canisters—was a classic demonstration of the fact. A weapon so general produces, inevitably, a common reaction among its victims: it creates solidarity where there was none before.<sup>125</sup>

The events surrounding “Bloody Sunday” also demonstrate the violence used by the military forces.<sup>126</sup> Army officials attempted to counter the violent riots in Derry by sending members of the first Battalion, The Parachute Regiment (1 Para or Paras) from Belfast to Derry. The Derry RUC recommended against this.<sup>127</sup> Nevertheless, the Paras took aggressive action where the Derry RUC had not. The RUC maintained the doctrine of minimum force and took the ensuing barrage from the rioters. This had led to more security forces injuries, but fewer injuries among civilians, and hence less violence overall. Additionally, the Paras chased rioters into areas that troops had been ordered to

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<sup>123</sup> Charles Townshend, *Britain's Civil Wars: Counterinsurgency in the Twentieth Century* (London: Faber and Faber, 1986), 19.

<sup>124</sup> Thornton, “Getting it Wrong,” 83.

<sup>125</sup> The Sunday Times Insight Team, *Ulster* (London: Andre Deutsch, 1972) in Thornton, “Getting it Wrong,” 83.

<sup>126</sup> “Bloody Sunday” is the name given to the British Army’s actions on Sunday, January 30, 1972. In reaction to a Catholic civil rights rally in Derry, members of the first Battalion of the British Parachute Regiment opened fire on civilian protestors killing 13, and injuring 13. No evidence shows those shot presented a lethal threat, or possessed a weapon. Many onlookers, including priests, verified that those shot were unarmed and fleeing the scene.

<sup>127</sup> Thornton, “Getting it Wrong,” 98.

avoid. In the aftermath, 13 Catholics were killed and another 13 injured. The city was lost to the Army as the Catholic community was completely alienated. “Bloody Sunday” became a rallying cry against oppression much as “Remember the Alamo” was for volunteers fighting for Texas’ independence.

The use of paratroopers to police the crowds maximized the negative impact of using troops as police. The paratroopers were more likely to resort to force rather than consider alternatives, and to use more extreme violence than either the police or traditional Army troops.<sup>128</sup> Hence, the troops were poorly suited to participate in situations that placed them in contact with the civilian population. An Army officer in Derry during “Bloody Sunday” commented:

The Paras are trained to react fast and go in hard. That day they were expecting to have to fight their way in. It was very tense. In those street conditions it is very difficult to tell where a round had come from. Once one was fired, that section, quite frankly, lost control. For goodness’ sake, you could hear their CO bellowing at them to cease firing, and only to fire aimed shots at actual targets.<sup>129</sup>

British peacekeeping procedures managed to tear down any image of neutrality. Their harsh tactics had a disproportionate affect on the Catholic population. Bell, an authority on the IRA, explains that the Army did not understand the consequences of their harsh response. “CS gas did more for the PIRA than all the legends of heroes and all the patriot graves.”<sup>130</sup> The aggressive nature of the Army was not limited to riot control, but permeated all aspects of the campaign. For example, the Army heavily limited movement of the Nationalist population and conducted massive numbers of searches. From 1971 – 1976, the British Army conducted over 250,000 home searches and inspected 5,000 vehicles a day.<sup>131</sup> The overall effect of the repressive tactics used by the Army was the alienation of the population. As a result, the military was ineffective as a law enforcement tool.

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<sup>128</sup> Mark Urban, *Big Boys’ Rules* (London: Faber, 1992), 172.

<sup>129</sup> Hamill, *Pig in the Middle*, 93.

<sup>130</sup> J. Bowyer Bell, *The Secret Army: The IRA*. 3rd edition (New Brunswick, New Jersey: Transaction Publishers, 1997), 376.

Figure 5. British Soldier roughs up demonstrator (From: Troops Out Movement website)<sup>132</sup>



The Army again employed repressive tactics in the internment operation. First, the manner of arrest was very violent. The Army smashed in doors, threatened women, cursed and insulted the innocent, manhandled pedestrians, and beat suspects.<sup>133</sup> A suspect apprehended during internment, Henry Bennett, told the Association for Legal Justice:

I was forced to run over broken glass and rough stones to a helicopter without shoes. I spent only fifteen seconds in the helicopter and I was then pushed out into the hands of military policemen. I was forced to crawl between these policemen, back to the building. They kicked me on the hands, legs, ribs, and kidney areas.<sup>134</sup>

Bennett was found innocent and released. Another suspect, Michael Farrell of People's Democracy had a similar experience:

Almost everyone had been beaten up. Many had been blindfolded and terrified by being thrown out of a moving helicopter which they were told

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<sup>131</sup> Benest, "Aden to Northern Ireland," 137.

<sup>132</sup> Troops Out Movement, "Bloody Sunday," <http://www.troopsoutmovement.com/bloody sunday.htm> (accessed November 14, 2007).

<sup>133</sup> Bell, *The Secret Army*, 382.

<sup>134</sup> J. Bowyer Bell, *The Irish Troubles: A Generation of Violence 1967-1992* (New York: St Martins Press, 1993), 218.



was high in the air but in fact was only inches off the ground. More had been forced to run the gauntlet barefoot between lines of troops with batons and across barbed-wire and glass-strewn ground.<sup>135</sup>

Second, once arrested the interrogation methods used by the Army were excessive. The European Commission on Human Rights indicted Britain for torture. Furthermore, a domestic commission headed by Lord Gardiner found five techniques used by the Army illegal.<sup>136</sup> While the Army retrieved some valuable information through the interrogations, the resulting alienation of the Catholic community more than outweighed the benefits of the information. Protests against internment increased in number, as did the number of barricades in Catholic neighborhoods. These 'no-go' areas provided safe refuge for terrorists. Additionally, support for the PIRA within the nationalist communities grew as the military came to be seen as aligned with Stormont interests.

Figure 6. Anti-internment marchers beaten by soldiers (From: CAIN Web Service)<sup>137</sup>



A final area of note is the use and collection of intelligence. It is a given in military operations that intelligence plays a critical role. In Ulster, the Army had no

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<sup>135</sup> Hamill, *Pig in the Middle*, 57.

<sup>136</sup> Townshend, *Britain's Civil Wars*, 71. An additional government inquiry by Sir Edmund Compton also found the five techniques illegal.

<sup>137</sup> John McGuffin, *Internment* (Tralee: Anvil Books, 1973), <http://cain.ulst.ac.uk/events/intern/docs/jmcg73.htm> (accessed Oct 4, 2007).

intelligence about the local situation, and was forced to rely upon the RUC for information regarding the IRA. However, the RUC was reluctant to provide information to the Army for fear that the Army would distribute the intelligence and corrupt their sources.<sup>138</sup> As a result, the Army had to start from scratch to slowly develop useful intelligence. The internment period highlights the failure of the Army's intelligence in uncovering PIRA members. On August 9, 1971, military troops arrested 342-suspected PIRA terrorists. Due to their lack of knowledge about the local communities, the Army relied completely upon the RUC for a list of names. Yet, police intelligence differed from the type required of the military, and was not appropriate for military action.<sup>139</sup> Police information tended to consist of background information on terrorists, yet the Army required contact information. This was necessary in order to locate them for arrest. As a result, much of the IRA leadership avoided capture during the preliminary internment roundups.<sup>140</sup> Moreover, only Catholic communities were initially targeted, and not one Loyalist was apprehended for terrorist acts. After six months, 2,357 were arrested, with 67 percent later deemed innocent and released.<sup>141</sup> This action provoked the Catholic community into new rounds of violence in reaction to the injustice. In the five months following the beginning of internment, bombings increased from 382 to 1022 and soldiers' deaths swelled from 10 to 33 compared to the previous five months.<sup>142</sup>

### **3. Era of Police Primacy in Law Enforcement**

"The Way Ahead" describes Britain's transition from military to police primacy in Northern Ireland in 1977. The security force breakdown was drastically altered as a result. The RUC grew from its pre-Troubles size of 3,000 officers to 8,813 full-time and 4,543 part-time officers by 1991. Conversely, the size of the Army decreased from a

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<sup>138</sup> Hamill, *Pig in the Middle*, 267.

<sup>139</sup> Townshend, *Britain's Civil Wars*, 28.

<sup>140</sup> Thornton, "Getting it Wrong," 93.

<sup>141</sup> CAIN web service, "Extracts from 'Internment' by John McGuffin," <http://www.cain.ulst.ac.uk/events/intern/docs/jmcg73.htm> (accessed September 20, 2007).

<sup>142</sup> Thornton, "Getting it Wrong," 93.

high of 22,000 troops in 1972 to approximately 13,500 in 1977 and 10,500 by 1982.<sup>143</sup> The move to police primacy has also been described as Ulsterization or Criminalization. This section explains why the change was necessary and how the improvements made to the RUC since 1969 affected its performance after 1977. Ulsterization refers to the transfer of responsibility for law enforcement from the Army to the RUC. It also reflected the redefinition of IRA violence to criminality.<sup>144</sup> Prime Minister Thatcher is well-known for her remark, “A crime is a crime is a crime,” in reference to terrorism in Ulster.<sup>145</sup> Police officers are best trained and prepared to deal with criminal offenses, so the redefinition of the offense led to a transfer of responsibility back to the RUC, with the Army acting in a support role.

This policy shift reflected the government’s realization that the Army could not solve the problem. In 1970, the Defense Secretary Lord Carrington complained that “the maintenance of the garrison of Northern Ireland at its present level involve[s] heavy expenditure and impose[s] a serious strain on the Army.”<sup>146</sup> A senior Ministry of Defense official informed Members of Parliament in 1977 that “Britain’s position in NATO could be jeopardized” if troop levels in Northern Ireland were not reduced.<sup>147</sup>

This situation inspired leaders to find new solutions toward the violence in Ulster. “The Way Ahead,” was the result. According to Chief Constable of the RUC, Sir Kenneth Newman: “There had to be a balanced strategy, one which allowed a steady progress against terrorism to march side by side with improved relations between the police and the public...This sort of progress could never be achieved by the measures advocated by the Army.”<sup>148</sup> He went on to suggest that the “crimes of terrorism can most effectively be dealt with by highly-professional and sophisticated police methods. The

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<sup>143</sup> Hoffman and Taw, *A Strategic Framework for Countering Terrorism and Insurgency*, 22; David Butler, *British Political Facts 1900-1979* (London; The Macmillan Press, 1980), 435.

<sup>144</sup> Criminalization meant to limit violence and create a sense of normalcy in Ulster. Within this policy, the courts will not distinguish between offenses based on motive. In effect, all acts are criminal.

<sup>145</sup> Baldy, *Battle for Ulster*, 10.

<sup>146</sup> Neumann, “The Myth of Ulsterization in British Security Policy in Northern Ireland,” 369.

<sup>147</sup> Ibid.

<sup>148</sup> Hamill, *Pig in the Middle*, 256.

full weight of the Army is therefore being deployed in a detailed way which best serves police purposes and is governed by police objectives.”<sup>149</sup> Roland Moyle, the Northern Ireland minister from 1974-1976 stated that the change was “necessary to civilize the situation to start with. The Army was not trained to do policing. They would kick down doors and send the troops in. It was all very rough.”<sup>150</sup>

However, the government recognized early in the conflict that internal reform of the RUC was necessary before police primacy could be reestablished. These reforms were intended to transform the RUC into a professional force that was capable of taking a lead responsibility for law and order, with military support. First among Britain’s tasks was to alter the sectarian nature of the police force from its predominant Protestant composition and leanings.<sup>151</sup> Through retirement and transfers to part-time status, the RUC had removed most of its original police officers (those involved in the 1968-1969 problems) by 1974.<sup>152</sup> Likewise, it recruited new officers, so that by 1975 sixty-six percent of the officer corps had been recruited after 1969. Roland Moyle declared the RUC ‘new.’<sup>153</sup> Therefore, Westminster believed that reforms were complete, and the police could now accept responsibility for law enforcement in Ulster.

Second, in its period of reform in the early 1970s, the RUC made major changes in its training and its public accountability programs. Earning community consent for the police was a major goal. Training procedures emphasizing the importance of impartial policing were adapted, and the B-Specials were disbanded.<sup>154</sup> Moreover, an Office of the Director of Public Prosecutions, Community Relations Branch, and Police Complaints Board were all created to help improve its relations, especially among Catholics.<sup>155</sup>

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<sup>149</sup> Weitzer, “Policing in a Divided Society,” 41.

<sup>150</sup> Neumann, “The Myth of Ulsterization in British Security Policy in Northern Ireland,” 369.

<sup>151</sup> Despite its attempts to make the RUC less representative of Protestants, it remained this way since many Catholics dismissed the RUC and did not join.

<sup>152</sup> Neumann, “The Myth of Ulsterization in British Security Policy in Northern Ireland,” 369.

<sup>153</sup> *Ibid.*

<sup>154</sup> The Ulster Special Constabulary, or B-Specials were disbanded in 1970 due to the harshness they displayed in riot control, but also due to its sectarian nature. They were replaced with the Ulster Defense Regiment which was under control of the Army instead of the RUC.

<sup>155</sup> Weitzer, “Policing in a Divided Society,” 45.

At the same time, the reforms sought to give the police some requisite military attributes. This propelled the RUC into a “formidable, militarized security force.”<sup>156</sup> It maintained an arsenal of offensive equipment resembling Army units more than police. Officers patrolled combat-style in armored landrovers, were equipped with high-power weapons, and trained in counter-insurgency tactics. Additionally, they formed 20 Divisional Mobile Support Units for surveillance, rapid strike operations, and support for other RUC units. Military trained Headquarters Mobile Support Units were also formed.<sup>157</sup> Interoperability between the police and Army was finally established. A “Quadripartite Group for Security” consisting of the RUC Chief Constable, GOC Northern Ireland, political advisor from the Northern Ireland Office, and an intelligence coordinator oversaw and coordinated intelligence and operations within Ulster.<sup>158</sup> The Army accepted the role of aiding the civil power and providing support to the police.<sup>159</sup> A particular role that the Army supported the RUC was in surveillance and covert operations. The principal Special Forces unit in Britain, the Special Air Service conducted many of these maneuvers.

Following the switch to police primacy, the number of incidents and fatalities resulting from terrorism markedly decreased from the period of military primacy.<sup>160</sup> Weitzer notes that civilian fatalities declined from 74 percent in 1972-1977 to 50 percent in 1982-1987. Additionally, he concludes that sectarian attacks by mobs dropped off after the mid-1970s.<sup>161</sup> Furthermore, Baldy concludes that the smaller proportion of civilian deaths was the result of improved security force personnel and tactics, improved intelligence, and special emergency powers granted to the police.<sup>162</sup> Table 1 below reveals the total level of deaths in the conflict through 1990. It includes civilian, security

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<sup>156</sup> Weitzer, “Policing in a Divided Society,” 41.

<sup>157</sup> Ibid., 48; Hoffman and Taw, *A Strategic Framework for Countering Terrorism and Insurgency*, 22.

<sup>158</sup> Hoffman and Taw, *A Strategic Framework for Countering Terrorism and Insurgency*, 22.

<sup>159</sup> Weitzer, *Transforming Settler States*, 206. The Army did concentrate in insurgent hot spots, but outside of these areas, the police had responsibility for law and order.

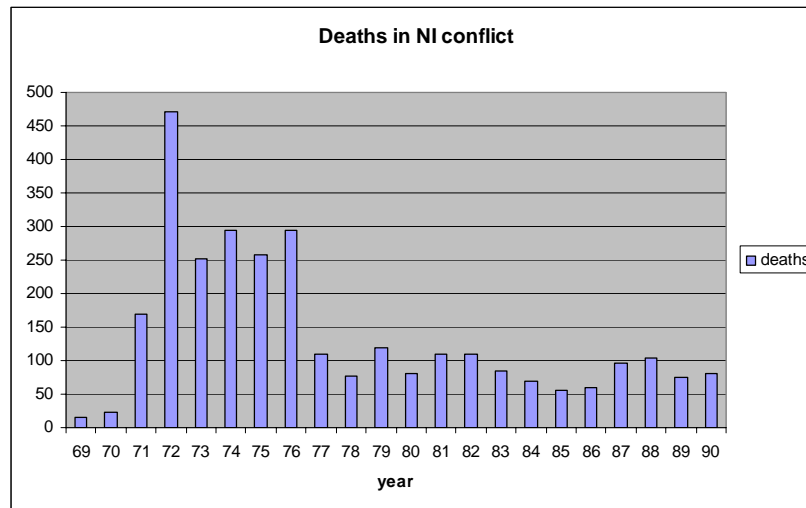
<sup>160</sup> Ibid., 201.

<sup>161</sup> Ibid.

<sup>162</sup> Baldy, *Battle for Ulster*, 75.

forces, and terrorists' deaths. It clearly shows a sharp decline beginning in 1977, the initiation of police primacy. As a result of its professionalization in the early 1970s, the RUC was now capable of countering the insurgency, as reflected in the reduced death toll.

Table 1. Deaths in Northern Ireland Conflict<sup>163</sup>



#### 4. Lessons Learned

The IRA case represents a failure to effectively counter domestic terrorism. Despite a switch in the responsibility for law enforcement, neither the police nor the military were victorious against the IRA. Instead, terrorism continued until a political settlement was eventually reached. The military finally left Northern Ireland in July 2007. Yet, we can learn as much from the failures of the counterterrorism effort against the IRA as the successes.

- Police forces must be representative of the population they protect

In Ulster, the RUC was 90 percent Protestant despite a small majority over Catholics in total population. Moreover, they were sectarian in their policing approaches, using harsher tactics against the Catholic community than the Protestants. This led to

<sup>163</sup> The data for deaths was found in Rasmussen, "The Military Role in Internal Defense and Security: Some Problems"; Baldy, *Battle for Ulster*.

perceptions among Catholics that the RUC was a tool of the Stormont government to repress Catholics and promote the Protestant cause in Ulster. As shown in this case study, when forces act in a sectarian nature they will be considered illegitimate in the eyes of a component of the population. When this happens, efforts to police become extremely difficult. In fact, the deployment of the Army was necessary not only to help stop the violence, but to serve as a security force while the RUC was restructured.

- Military forces should be utilized where best suited

The Army was not prepared for a lead role in law enforcement in Northern Ireland. It lacked training, intelligence, and knowledge of the sectarian nature of the violence. Hence, it should have been used in a support role to the RUC. The Army's personnel surplus could have benefited the RUC by serving in a vital point protection role, relieving police to concentrate on law enforcement, as was the case in Quebec. Additionally, it could have helped form cordons and carry out searches with the RUC. These missions would have kept the Army from the interactions with civilians that led to alienation. In extreme circumstances, which they were in Ulster, the Army could help serve in a crowd control capacity by supplying troops so that minimum force could be utilized against rioters.

Once the Army assumed a support role to the police gains were made. The total number of deaths, especially civilian, decreased after the initiation of police primacy. Instead of in fighting, the Army and police worked together in a joint capacity. While they did not eliminate the IRA, the methods used drove the terrorists further underground.<sup>164</sup> The military used its unique Special Forces assets to conduct covert operations and reconnaissance missions against the IRA. Further, they acted in concert with the RUC on Mobile Support Units. The combination of military and police working together made gains against the terrorists that the military, nor the police, alone had not.

- Conventional military tactics are ineffective against terrorism

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<sup>164</sup> Baldy, *Battle for Ulster*, 75.

Since the military lacked training in counterinsurgency, they relied on conventional tactics. Yet, conventional tactics are designed to counter another army. As a result, the Army acted very harsh in their encounters with civilians. It failed to realize the damage its techniques would have on the mission. While they might suppress the violence that day, or win the battle, these actions alienated the Catholic community and rallied support for the IRA. This fact illustrates that complex problems elude a classic military solution. Simple suppression of troublemakers is insufficient to address the underlying causes of an insurgency.

## **D. CONCLUSION**

### **1. Effectiveness of Law Enforcement Strategies**

Analysis of the period of military primacy reveals that it was ineffective in countering domestic terrorism. Considering the government assigned the lead role in law enforcement to the military for over seven years, it had ample time to test its methods. Instead, its actions alienated the population they were initially sent to protect, leading to a counterinsurgency rather than a civil disturbance. Then, in 1977, the British government adopted Ulsterization and transferred the responsibility for law and order back to the RUC due in part to the Army's failure to make effective gains. While the period of police primacy did not eliminate terrorism, it did decrease the level of deaths.<sup>165</sup>

The British government incorrectly assigned roles in the initial stages of "The Troubles." Military deployment was necessary due to the level of violence in Ulster, and the inability of the RUC to quell it. Yet, the military was not prepared for a lead role in law enforcement. As a result, they resorted to techniques of conventional warfare and incorporated heavy-handed methods against the civilian population. Their actions against the Catholic community alienated it, which eliminated any chance of community support in the campaign against the IRA.

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<sup>165</sup> See Table 1.



Conversely, when the military resumed its role in supporting the police, both the Army and the RUC benefited from each other's expertise. For the first time, jointness was evident among the security forces. Terrorism was not defeated, but if the Army had initially been used in this capacity, the violence would likely have not been as exaggerated. Therefore, analysis of this case suggests that the military was ill suited to a primary law-enforcement role against a domestic terrorist threat. Because of its training and policing methods, heavy-handed tactics, and use of intelligence, the Army exacerbated an already electric situation. What was initially civil disorder transformed into domestic terrorism partially due to the strategy of the British Army. Its actions further alienated the Catholic community and reinforced the perception that the government was oppressive.

## **2. Implications for the U.S. Posse Comitatus Act**

This case supports the school of thought opposed to repeal of the Posse Comitatus Act. Those calling for change to the law argue that the military is better prepared in training, equipment, and expertise to address internal terrorist threats. The British experience in Ulster provides evidence that this is not necessarily true. Despite its unique capabilities unavailable to the RUC, the Army failed to curb the violence in Ulster. Training in conventional warfare was of little value in countering terrorism. Additionally, the harsh actions of the Army grossly violated the civil rights of the citizens in Northern Ireland while not increasing effectiveness in countering terrorism. The IRA case shows that counterterrorism is not simply another type of warfare. Instead, it requires a distinctive skill set and training regimen.

Moreover, troops were requested at the behest of Stormont and the Chief Constable of the RUC. In the United States, troops would be deployed in a similar fashion, if necessary. The nature of this incident shows that a quicker deployment by the military would not have corrected the deep-rooted underlying issues that divided the Catholic and Protestant communities. The purpose of withholding troops is to safeguard

civilian supremacy in law enforcement. If the Posse Comitatus Act is repealed or amended then troops might respond before police have an opportunity to react themselves.

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## IV. CONCLUSION

There's a reason why you separate military and the police. One fights the enemy of the state. The other serves and protects the people. When the military becomes both...then the enemies of the state tend to become the people.<sup>166</sup>

### A. HYPOTHESIS FINDINGS

#### 1. Military Effectiveness in Domestic Counterterrorism

The threat of terrorism today is as evident as any time in our existence. The U.S. military is heavily involved in fighting the GWOT abroad in Iraq, Afghanistan, Africa, and the Philippines. Yet, terrorism is not limited to far away places that Americans find hard to name, or care little about. Instead, recent examples in Europe and arrests within this country suggest that terrorism may come from within our borders as well. As such, it is important to prepare for the potential of terrorism at home, as well as overseas. Therefore, it is important to define how the U.S. should structure our domestic counterterrorism response. Should the military assume the lead responsibility in this endeavor?

This thesis examined the effectiveness of using the military in a domestic counterterrorism role. It set out to argue that civilian law enforcement is more effective at countering domestic terrorism than military forces. However, the study indicated that the answer is not that simple. Instead of finding that civilian law enforcement is more or less effective, the analysis revealed that a combination of forces offers the ultimate government response. In other words, *neither the military nor the police single-handedly represent the best solution to domestic terrorism*. Left alone, civilian police often lack the personnel to effectively deal with large public disturbances like riots. Moreover, attempts to restore order may remove available personnel from other duties, such as

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<sup>166</sup> Ronald D. Moore, "Water," *Battlestar Galactica Season 1, episode 2*, (January 14, 2005). Commander Adama told President Roslin this in reaction to using military troops to put down a rebellion.

finding and arresting suspected terrorists. On the other hand, the military often reacts more harshly than police in the employment of its tactics. As such, neither is likely to counter domestic terrorism effectively without support. The best framework combines the police and military in a joint role. This brings the unique capabilities of both types of security forces to bear against terrorists.

In Canada, the military deployment served in a supporting role to the civilian police from the onset. It proved useful as a deterrent to political violence, while the police remained responsible for the investigation, and subsequent arrest of FLQ members. Military capabilities aided police in their function. This case, therefore, presents a best-case scenario for military deployment against domestic terrorism. The nature of the arrangement allowed for the police to effectively counter the FLQ. This enabled the police in due course, to achieve success.

In Northern Ireland, the military assumed the lead role in law enforcement against the IRA, primarily due to internal failures of the RUC. Its actions failed to quell the sectarian violence, and instead initiated the resurgence of the IRA. Due to the draconian measures employed, the Army alienated the Catholic community, and as a result was ineffective at countering terrorism. After the military took a support role under “The Way Ahead,” the IRA were driven underground due to improved intelligence, more thorough searches, and improved police procedures.<sup>167</sup> Although the IRA was not exterminated, deaths resulting from terrorism declined sharply and sectarian violence diminished from its ferocity of the late 1960s and early 1970s.

Finally, the cases reveal the consequences of using the military in a law enforcement role. In Ulster, the employment of the Army to combat the IRA led to government oppression in Catholic communities. Incidents like the Lower Falls curfew and internment represent societal costs resulting from military law enforcement. While the effects were not as large in Canada, Ottawa columnist George Bain suggests that the deployment of heavily armed military troops represents a dark time in Canadian

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<sup>167</sup> Baldy, *Battle for Ulster*, 75.

history.<sup>168</sup> Civil rights, he claims, were thrown out the window. The evidence, therefore, suggests that military employment comes at the price of civil liberties. Many times the military is necessary to overcome mass violence, but government must be prepared to accept the costs.

## 2. Applications to Posse Comitatus Act

Within the framework of designing the best U.S. domestic counterterrorism response, issues concerning the Posse Comitatus Act are central. Is another amendment or even repeal needed to prepare the U.S. government for effective reaction to domestic terrorism? Is the law a legal barrier to military effectiveness against this potential new enemy? Analyses of the cases within this thesis suggest that the Posse Comitatus Act provides sufficient flexibility for the military to react to domestic terrorism, while still ensuring adequate civilian supremacy. It requires neither repeal nor further amendment to address domestic counterterrorism reactions in the U.S.

The Watts riot in Los Angeles in 1965, the Cleveland riot of 1966, the Detroit riot in 1967 and the L.A. riots in 1992 are just a few instances in which federal troops deployed to help quell civil disturbances beyond the control of local police. *Title 10, Chapter 18, Military Support For Civilian Law Enforcement Agencies* provides a variety of statutory exceptions to the Posse Comitatus Act enabling the deployment of military troops or the use of military equipment.<sup>169</sup> Further, under the Stafford Act the President can authorize federal troops, after requested by a Governor, to deploy in a defense emergency capacity.<sup>170</sup> Together, these exceptions offer government leaders a wide array of options to deal with any threat. Domestic terrorism, as evidenced in both Canada and Northern Ireland, emerges slowly. It is not a 9/11 type incident. Thus, it is unnecessary to be able to deploy troops any more quickly than the Posse Comitatus Act

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<sup>168</sup> George Bain, "Trust Us, We Know." *Macleans* 103, no. 42 (October 15, 1990): 24.

<sup>169</sup> U.S. Code Home, "Title 10-Armed Forces, Chapter 18-Military Support For Law Enforcement Agencies," [http://www.access.gpo.gov/uscode/title10/subtitlea\\_parti\\_chapter18\\_.html](http://www.access.gpo.gov/uscode/title10/subtitlea_parti_chapter18_.html) (accessed November 8, 2007).

<sup>170</sup> Keith Bea, "Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding," *CRS Report for Congress* (August 29, 2005): 5.

presently allows. Given the absence of any evidence to indicate that the military can be more effective than police in the lead role against domestic terrorism, and the civil liberty violations that would likely occur, public debate should preclude a military deployment beyond that currently allowed under the Posse Comitatus Act. This will also help ensure civilian supremacy in law enforcement.

Figure 7. Military vs. Police Primacy (From: "Preserve Posse Comitatus," *The Progressive*)<sup>171</sup>



## B. LESSONS LEARNED

### 1. Military Forces are Sometimes Necessary and Inevitable

The case studies reflect that civilian police are not always capable of maintaining law and order without military assistance. The freedoms of liberal democracies also provide maneuver room for insurgents or terrorist groups. As a result, the federal government must be prepared to deploy troops if civilian police are overwhelmed. If used correctly, military forces provide a force multiplier to civilian law enforcement. For instance, military capabilities in terms of airpower, technology, and sheer numbers of

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<sup>171</sup> David Klein, "Preserve Posse Comitatus," *The Progressive* 69 (November 2005): 9

personnel can help defeat domestic terrorism. Moreover, they can provide a deterrent against uncommitted political actors as the Canadian case displays.

## **2. The Federal Government Needs to Develop Implementation Policies for Joint Police/Military Interoperability**

In both case studies, cooperation between the police and military was problematic. A structure needs to be put in place prior to a precipitating event. This framework should detail rules of engagement, command and control structure, and responsibilities of each force. Ideally, this plan should relegate the military to a support of civil authority role and bestow the police the primary role in law enforcement. Furthermore, it should detail the expectation of the military involvement and require government oversight and approval to extend. Finally, it should ensure that unity of command is intact. The overall command should fall within to civilian authority. This will enable the police to utilize military forces for low impact roles and preserve law enforcement for civilian police.

## **3. The Military is not Properly Trained for Civilian Law Enforcement.**

If the military is to be used in a law enforcement role, then appropriate training is necessary. This should consist of rules of law, arrest powers, and minimum versus maximum force. Presently, the vast majority of military forces are trained to fight conventional warfare. This type of training is markedly different from that of irregular warfare. Hence, if military forces are employed against domestic terrorism they will be ill prepared. Accounts from the military involvement in the L.A. riots reveal that the military and police have different perspectives of law enforcement.<sup>172</sup> Military troops are more likely to use force due to their training in combat. Hence, military forces should be

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<sup>172</sup> "Police officers responded to a domestic dispute, accompanied by marines. They had just gone up to the door when two shotgun birdshot rounds were fired through the door, hitting the officers. One yelled 'cover me!' to the marines, who then laid down a heavy base of fire. . . . The police officer had not meant 'shoot' when he yelled 'cover me' to the marines. [He] meant . . . point your weapons and be prepared to respond if necessary. However, the marines responded instantly in the precise way they had been trained, where 'cover me' means provide me with cover *using firepower*. . . . over two hundred bullets [were] fired into that house." James D. Delk, *Fires & Furies: The L.A. Riots* (Palm Springs, Calif.: ETC Publications, 1995): 221-22.



utilized in low-impact roles to the utmost extent. This enables them to contribute effectively, yet refrain from interaction with the civilian population where they lack the appropriate training.

#### **4. Military Deployment should be as Short as Possible**

The Posse Comitatus Act's original intent was protection against a standing army of occupation.<sup>173</sup> The United States has a tradition of non-approval for prolonged military action in recent history. Take for example the Vietnam conflict and the present war in Iraq. It is doubtful Americans would accept a deployment of this length within the United States. Therefore, if the military is deployed it must not only maintain a support role, but also depart as soon as the police can maintain law and order.

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<sup>173</sup> Anonymous, "Police State vs. Posse Comitatus," *The New American* 18 (August 12, 2002): 8.

## APPENDIX 1

### OCTOBER CRISIS CHRONOLOGY OF EVENTS

- October 5, 1970 – Kidnapping of James Richard Cross, the British Trade Commissioner, by the Lanctot cell of the FLQ
- October 6 – Quebec Premier, Robert Bourassa, decides to work together with the federal government
- October 7 – FLQ manifesto read on television CKAC publicly
- October 7 – Specialist doctors go on a general strike
- October 8 – FLQ manifesto read on Radio-Canada television
- October 10 – Kidnapping of Pierre Laporte by the Rose cell of the FLQ
- October 11 – Secretary General of Quebec cabinet, Julien Chouinard comments that Quebec having difficulty holding FLQ suspects under the criminal code and wishes to invoke the War Measures Act
- October 12 – federal government calls upon the Canadian army to patrol Ottawa region
- October 12 – first draft of the Regulations under the War Measures Act prepared by City of Montreal attorney Michel Cote
- October 13 - Mayor Drapeau of Montreal declares revolution in progress.
- October 14 – FLQ leaders, Pierre Vallieres, Charles Gagnon, and FLQ lawyer Robert Lemieux attempt to gather support for the FLQ among students and professors at the university.
- October 15 – Bourassa government agrees to call in the army; place all municipal police under the authority of the Director General of the Surete du Quebec; and study with the federal government, what regulations under the War Measures Act
- October 15 – 800 students gather at Quebec University in Montreal gather to support the FLQ
- October 15 – FLQ leaders convince approximately 1000 to sign the FLQ manifesto
- October 15 – 3000 students meet at Paul Sauve Arena in Montreal to rally support for the FLQ
- October 16 – letter from Bourassa government requesting emergency powers is delivered to Prime Minister Trudeau
- October 16 – War Measures Act powers invoked
- October 16 – police apprehend potential agitators

- October 17 – Pierre Laporte executed
- October 19 – Parliament votes 170-17 in favor of the War Measures Act
- November 2 – regulations issued under War Measures Act are replaced by Public Order Act of 1970, in effect until April 30, 1971. Act is approved in the House of Commons by a vote of 152 to 1
- December 3 – House where Cross is held is discovered. Cross is released and four FLQ terrorists are flown to Cuba.
- December 27-28 – three members of the Rose cell are found in a tunnel and convinced to surrender to police

## **APPENDIX 2**

### **WAR MEASURES ACT, 1914**

#### **AN ACT TO CONFER CERTAIN POWERS UPON THE GOVERNOR IN COUNCIL IN THE EVENT OF WAR, INVASION, OR INSURRECTION**

*Statutes of Canada (1914) Chapter 2.*

##### **SHORT TITLE.**

1. This Act may be cited as the War Measures Act.

##### **EVIDENCE OF WAR.**

2. The issue of a proclamation by His Majesty, or under the authority of the Governor in Council shall be conclusive evidence that war, invasion, or insurrection, real or apprehended, exists and has existed for any period of time therein stated, and of its continuance, until by the issue of a further proclamation it is declared that the war, invasion or insurrection no longer exists.

##### **POWERS OF THE GOVERNOR IN COUNCIL.**

3. The Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council shall extend to all matters coming within the classes of subjects hereinafter enumerated, that is to say:-

- (a) Censorship and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
- (b) Arrest,, detention,, exclusion and deportation;
- (c) Control of the harbours, ports and territorial waters of Canada and the movements of vessels;
- (d) Transportation by land, air, or Water and the control of the transport of persons and things;
- (e) Trading, exportation, importation, production and manufacture;
- (f) Appropriation, control, forfeiture and disposition of property and of the use thereof.

2. All orders and regulations made under this section shall have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation; but if any order or regulation is varied, extended or revoked, neither the previous operation thereof nor anything duly done thereunder, shall be affected thereby, nor shall any right, privilege, obligation or liability acquired, accrued, accruing or incurred thereunder be affected by such variation, extension or revocation.

4. The Governor in Council may prescribe the penalties that may be imposed for violations of orders and regulations made under this Act, and may also prescribe whether

such penalties shall be imposed upon summary conviction or upon indictment, but no such penalty shall exceed a fine of five thousand dollars or imprisonment for any term not exceeding five years, or both fine and imprisonment.

5. No person who is held for deportation under this Act or under any regulation made thereunder, or is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, or to prevent his departure from Canada, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice.

6. The provisions of the three sections last preceding shall only be in force during war, invasion, or insurrection, real or apprehended.

#### **PROCEDURE.**

7. Whenever any property or the use, thereof has been appropriated by His Majesty under the provisions of this Act, or any order in council, order or regulation made thereunder, and compensation is to be made therefore and has not been agreed upon, the claim shall be referred by the Minister of Justice to the Exchequer Court, or to a superior or county court of the province within which the claim arises, or to a judge of any such court.

8. Any ship or vessel used or moved, or any goods, wares or merchandise dealt with, contrary to any order or regulation made under this Act, may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court.

9. Every court mentioned in the two sections last preceding may make rules governing the procedure upon any reference made to, or proceedings taken before, such court or a judge thereof under

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