



What National Guard Training Can Tell Us About Policing Protests

Victoria Chamberlin

June 11, 2020

A National Guard soldier called in to help quell protests in Louisville fatally shot Kentucky restaurant owner David McAtee.

Residents of Louisville were already reeling from the death of Breonna Taylor, who was killed by police detectives in her home when they attempted to serve a warrant according to The Courier Journal. A video reconstruction by the New York Times shows what appear to be violations of the Louisville Police Department's use of force that led McAtee to allegedly fire a 9mm handgun at law enforcement, according to state officials, which led to police and National Guard firing back and killing him.

As in Kentucky, governors in 30 states and the District of Columbia deployed National Guard units in recent weeks to respond to protests over police brutality alongside law enforcement. Guard units most often assist with natural disasters and security for large events, but responding to domestic civil unrest is also part of their core mission.

While uniformed Guard members patrolling the streets creates an unsettling visual, some experts say the National Guard is less likely than police to escalate a situation to violence during a protest thanks to centralized rules of force and standards of accountability. Though the killing of McAtee shows that these rules cannot prevent violence, experts say the Guard's military standards are clearer and stricter than those police officers generally follow.

The military is governed by a separate federal legal code in addition to the civilian legal system called the Uniformed Code of Military Justice. It is based on the idea that service members are held to a higher standard of conduct than civilians.

National Guard troops are different from active-duty in that they maintain their military service part time, and fall under the control of their state Governor and state laws, with the exception of Washington, D.C. But most states have either adopted the UCMJ for their military conduct guidelines very closely, if not verbatim.

“There’s not only the Uniform Code of Military Justice, but there’s very defined rules of engagement on how and when to use force that the military is held accountable to,” said Emma Moore, a research associate on military and society for the Center for a New American Security. “The police do not seem to have the same standards nor are held accountable within our legal system.”

There is no national standard for accountability when it comes to police misconduct. That is one factor, experts say, that has led to a loss of faith in law enforcement over time. According to the CATO Institute, the perception that police will face consequences for misconduct is split: 46% of Americans believe police are not “generally held accountable,” compared with 54% who believe they are. The responses to a recent Pew Research Center survey on trust and distrust in America indicated that Americans trust the military more than police.

In the days of protests sparked by the killing of George Floyd by police in Minneapolis, it could be hard in many cities to distinguish between the National Guard and the civilian law enforcement officers deployed to the protests. Police forces themselves look more like military units than ever before, thanks in part to a federal program that allows the Department of Defense to provide surplus military equipment to law enforcement, including armored vehicles, weapons, and even aircraft.

“The military gets equipment but gets substantial training, at least compared to the police, about how to use it and what to do with engagement,” Moore said. “Whereas, it seems like the police get the equipment but haven’t quite gotten the appropriate training for how to actually use it in a way that’s appropriate for the situations in which they find themselves.”

That’s not to say that it’s easy for National Guard troops to respond to mass demonstrations or that Guardsmen do not commit violence against protesters. These situations have been fraught since long before the Kent State massacre. The New York Times called President Trump’s deployment of National Guard troops to Washington “a debacle.” Guardsmen who responded to the recent protests against the killing of George Floyd and others told Politico they were uncomfortable responding alongside police.

National Guard Bureau Chief Gen. Joseph Lengyel told reporters “the civil unrest mission is one of the most difficult and dangerous missions that we do here in our domestic portfolio — this mission is an uncomfortable mission. They [National Guard troops] don’t like doing it.”

National Guard units train to control crowds. Army units, including the National Guard, are required by the U.S. Army Field Manual for Civil Disturbance Operations to undergo “intensive, realistic, and sustained” training on the use of force and “interpersonal communication.” Military police procedures on the use of force urge soldiers to “control emotions” to “guard against excessive response and the urge to get revenge.” Soldiers found to have disregarded the field manual could face criminal liability and expulsion from the military.

In contrast, just eight states mandated training for de-escalating tense situations for all officers, as of a 2017 report by American Public Media. According to the operating procedures of the Metropolitan Police Department in Washington, D.C., anything from blocking traffic to property

damage can warrant the use of “less lethal” weapons like chemical irritants, pepper spray and batons if other crowd management tactics don’t work.

A Historical Perspective

Lindsay P. Cohn researches civilian-military relations as a faculty member at the U.S. Naval War College in Newport, Rhode Island. The concentration of law enforcement and military troops during recent police brutality protests in Washington, D.C., reminded Cohn of the 1963 March on Washington, but with a notable difference. In 1963, the federal government didn’t want to use the National Guard, so local authorities put a couple thousand Guard troops on inactive drill status and deputized them as special police, armed with batons. They mostly directed traffic.

In preparation for the march during which Dr. Martin Luther King Jr. would give his famous “I have a dream speech,” the federal government assumed there would be violence, and planned accordingly. The Justice Department and the Army made plans to convene a massive task force just outside of D.C. to be ready if things got beyond the capacity of local authorities, according to Cohn. But the violence never came.

“That was a good example of restraint on the side of the government forces avoiding interfering with a peaceful protest,” Cohn said.

In 2020, it was the federal government that deployed roughly 5,000 National Guard troops to the streets of Washington in the face of peaceful protests, possibly at the expense of the military’s reputation with the American public.