

A WELL-REGULATED AND LEGAL MILITIA

Constitution, Common Law And Common Sense Make The Case For Militias

Text & Photo by Carl D. Haggard

Some writers have either directly stated or indirectly implied that organized citizens militias are somehow illegal or unlawful (see "Join A Militia - Break The Law?" SOF sidebar, April '95). Is this true? Are law-abiding citizens who collectively exercise their rights to keep and bear arms committing a crime? The question is squarely presented: Is militia activity against the law?

Decent, law-abiding, God-fearing and fiercely independent citizens are concerned with the increasingly terse media cacophony which attempts to paint all citizens militia activity as either racist, illegal or unnecessary. But research on the subject supports the opinion that organized citizens militias are not only legal, but also very necessary.

There are two distinct militias. The "organized militia" refers

to the official military forces organized by a branch of government. The "unorganized militia" typically refers to the entire body of citizens capable of bearing arms who have not been

called into the service of a state. "Well-regulated" simply means a militia - whether of the government or of the citizens - has a chain of command, rank structure and some system of responsibility.

A "citizens militia" is a part of the citizenry who have not been called up, drafted or selected by a governor or the president. It is obviously not "employed in the service of the United States" or "called into the actual service of the United States" as

described by Articles I and II of the Constitution. Such citizens militias are also not military forces. They constitute, however, a part of the unorganized or reserve militia that chooses to be well regulated. The fact that citizens describe or call themselves a militia does not make the group an official government military force.

It is sufficient to note that Article I of the Constitution deals with the armies, Navy and land and naval

forces of the United States, and mentions "calling forth the militia." The president, under Article II, is "Commander in Chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States." Clearly, the Founding Fathers knew the difference between militias and military forces of the states and the United States.

The main legal point missed by those who disparage militia activity

or try to label it as illegal is that there is a recognized right to associate with others for lawful purposes that has been firmly established in numerous cases by the U.S. Supreme Court. The Bill of Rights does not explicitly mention freedom of association. However, it has been repeatedly held that this freedom derives by implication from the explicitly stated rights of speech, press, assembly and petition. Not all social associations are protected, and the Supreme Court has held that a

group of people do not have any specially protected First Amendment right to gather together for social purposes where they do not otherwise have the right to be.

Case law from the Supreme Court defines where the right of freedom of association begins and ends. *Herman vs. Illinois*, 116 U.S. 615 (1886), contains a good definition of militias. *U.S. vs. Verdugo-Urquidez*, 494 U.S. 259 (1990), describes what the Second Amendment means by a "right of the people." *NAACP vs. Alabama*, 357 U.S. 449 (1958), is the premier case on freedom of association. *Brandenburg vs. Ohio*, 395 U.S. 444 (1969), holds that members of the Ku Klux Klan may not only associate as an organization, but members may say just about whatever they want no matter how cross and grumpy it may make the thought police.

The case is easily made that there is a constitutional right to associate with others *for lawful purposes*, including training with lawfully possessed arms in a place where one has the right to be. A few states have militia statutes that purport to prohibit citizens from associating as a "military company or organization." Such legislation either does not apply to organized citizens militias or is clearly unconstitutional in light of legal opinions on freedom of association.

Soldier Of Fortune regularly advertises the availability of military training and has traditionally accepted advertising from militia organizations. Magazines and militia groups may legally conduct such advertising as it is not against the law to associate with others for lawful purposes, including military training.

At issue is not whether one has a right to keep and bear arms, but whether one may actually exercise that right in unison with others. There is no question that it is an individual



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right and not a states-only right. Even if there were not several clearly defined U.S. Supreme Court cases, there is ample authority for citizens militia to be found in common law. The lessons validating the right to an armed citizenry are numerous and compelling. From these and others flow a co-equal right of an armed citizenry to organize for lawful purposes.

The only clear and present danger

activity. But why are various voices daily adding to the hysteria concerning militia activity and why is this being spoon-fed to the public by the mainstream press?

Major Ralph Peters of the Office of the Deputy Chief of Staff for Army Intelligence wrote a chilling article entitled "The New Warrior Class " in the summer 1994 edition of the U.S. Army War College Quarterly, *Param-*

lines the recommended procedure which is being followed as the press turns up the heat on the militia:

"Although there are nearly infinite variations, this type of threat requires a two-track approach - an active campaign to win over the populace coupled with irresistible violence directed against the warlord(s) and the warriors. You cannot bargain or compromise with warriors. You cannot 'teach them a lesson' (unless you believe that Saddam Hussein or General Aided have learned anything worthwhile from our fecklessness in the clinch). You either win or lose. This kind of warfare is a zero-sum game. And it takes guts to play."

Would this zero-sum game be played out in America? What the government did at Waco and Ruby Ridge has caused many Americans to wake up to the possibility that our own shadow government has just such a plan in store for us. Militiamen feel perfectly justified in arming themselves as is their right to do, and to train with those arms.

Operations such as Waco and Ruby Ridge - that gave the initial impetus to the amazing growth of citizens militias - have temporarily ceased as the media game is cranked up. During this lull, both sides are now looking across the open field at each other, wondering and worrying about what the next move of the other might be. Our great nation is currently a tinder box set to ignite with the next spark , and the resulting conflagration could have disastrous effects on the very liberties that militiamen so ardently train to protect.

We are the militia. The militia exists in all of us. Individually, we are the militia. It is true a militiaman's right to keep and bear arms is the same as any other citizen's and is not any greater because one belongs to a militia organization . But these rights are certainly not any less. A militiaman's right to organize and associate with others for lawful purposes is also not any less than that of the average citizen.

Patriots around the country seem united , despite the attacks and scare tactics, to hang together to defend Americans ' natural, God-given right

Maintaining A Healthy Militia

It is presumed militias will conduct themselves lawfully. A few suggestions to citizens who choose to organize into a militia unit include:

1. Know the laws of God and obey them. God will not bless his people with victory over the godless, one-world-order federalists if his laws are not obeyed to begin with. Also remember that God gives every living creature he creates the right of self-defense.

2. Know the law of the land and obey it. This doesn't mean that you won't be harassed or arrested, but don't give the government an argument that can be used against you. If you don't like the law, work to change it . The outcome of great social upheaval following civil war has traditionally been a net loss of liberty and this is possibly what "they" want to accomplish.

3. Control your unit and each other. Under the law, commanders must be (and will be) held responsible for the conduct of the members of a unit.

4. Avoid agent provocateurs. They are easy to spot - they are always trying to get you to do something illegal. Kick them out of your unit and alert others. Most won't be real agent provocateurs, but their conduct has the same effect: legal entanglements. It also includes those who are "spoiling for a fight." Militias are purely defensive, so don't let any well-intentioned but misguided individual back you into illegal conduct.

5. Avoid agent saboteurs. They are also easy to spot - they are always trying to subvert a perfectly good militia unit into a political action committee. The first and foremost reason for a militia is to collectively exercise a fundamental right: to keep and bear arms . The second goal is to be prepared to assist local law enforcement officials in time of an emergency, disaster or other crisis. If you allow your militia unit to go political, it will degenerate into internal fights and squabbles that will destroy unit cohesion and effectiveness.

6. Exercise your rights in a place that you have the right to be and do so often. It means nothing to have a right that you do not actually exercise.

7. Obtain signed "assumption of risk" documents from each member of your unit. The widows and orphans attorney can be counted on to take a dim view of your lawful activity if someone in your group gets stupid on safety rules.

8. Protect the land owner. Sign a third-party lease. You know the drill - don't ask, don't tell.

- C.D.H.

to the government from militia activity is that armed citizens trained in the military arts are extremely frustrating to the goal of total enslavement of the population. Those who hold that only the police and the military need weapons - the ultimate safe streets doctrine - also maintain that only military and police personnel need to play soldier. Their confederates in the press act as a public affairs office for the gun-grabbers and attempt to paint an ugly picture to prejudice the public about militia ac-

eters. The government's goals obviously include not only the attempted brainwashing of the general public, but also the indoctrination of our young men and women in the military to accept a government operation aimed at disarming law-abiding citizens, with force if necessary.

The article names four groups who apparently will be the future targets of our own soldiers: nationalists, drifters, patriots and former military men. This last group is described as "the most dangerous." Major Peters out-

LEGAL MILITIAS

Continued from page 47

to keep and bear arms and to associate with others for that same lawful purpose. Do as President Bill Clinton suggested: Take up reading and grab a good book. I suggest the

U.S. Army's *Ranger Handbook*. Let us preserve our right to keep and bear arms by doing so lawfully and openly. We need not fear the night and we need not run and hide. We cannot plan for unlawful conduct on the part of godless, one-world - order federalists.

We will hang onto our freedoms in this great nation only as long as we have the courage to hang onto our guns. We must trust in each other, in our Constitution, and most of all, in our good God.

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