

From the Patriot Archives ftp site at:

ftp://tezcat.com/patriot

If you have any other files you'd like to contribute, e-mail them to alex@spiral.org.

Militia Q&A

Copyright (c) 1994 Constitution Society. Permission is granted to copy with attribution for noncommercial purposes.

Q: What is the Militia?

A: It was best defined by George Mason, one of the Framers of the U.S. Constitution, who said, "Who are the Militia? They consist now of the whole people, except for a few public officers."

Q: If they're the whole people, why do we need a special word like "militia" to refer to them?

A: The Militia is the people in a certain capacity, as defenders of the community and enforcers of the law. In that capacity, they are expected to have and use the tools needed to perform that role: personal weapons, and particularly firearms.

Q: Isn't that what we have the military and police for?

A: Yes, we do hire some of us to perform these duties on a full-time, paid basis. But that does not relieve us of the power or the duty to perform those duties when the situation calls for it.

Q: Power? Don't the military and police have powers ordinary civilians don't have?

A: Yes, the police have special powers to enforce certain regulations, like traffic regulations, that civilians don't have. And the military can engage in combat operations on foreign soil representing the United States. But all citizens have general powers to repel invasions, suppress insurrections, and enforce the laws, the three duties of the Militia, just like the military and police. They just don't do it on a full-time, paid basis.

Q: Come on. If I tried to go out and enforce some law, wouldn't I be subject to arrest for something? Like impersonating an officer, or maybe obstructing justice?

A: Not if you only tried to enforce the laws that civilians have the power to enforce, which are laws against felonies and more serious misdemeanors, and didn't misrepresent yourself as an officer, who outranks most civilians, and who therefore is authorized to issue orders to civilians in situations where he is present and is himself acting in accordance with law. As for obstructing justice, anyone, including a law enforcement officer, can do that. Everyone involved is expected to cooperate with one another in enforcing the law and not jeopardize one another's legitimate efforts. That applies to everybody, officers and civilians alike. When there is disagreement about how best to do that, the dispute is ordinarily resolved by deferring to the officer with the highest rank, but he

may be out of line. Ultimately, it is up to the courts to decide who is obstructing whom.

Q: So don't federal law enforcement officials outrank state officials, who outrank local?

A: No, each can investigate and apprehend under all the same laws, just as any citizen can. The problem arises with the attempts by the federal government to extend its authority to act against "crimes" that it does not have the constitutional power to prosecute, and to try such cases in federal courts. The Constitution delegates only very limited criminal prosecution powers to the federal government for acts committed on State territory: treason, counterfeiting, and crimes on the high seas and against the laws of nations (that is, war crimes). It has broad legislative authority on federal territory, which includes State land ceded to the federal government by a State Legislature, but there is very little of that left since Hawaii and Alaska joined the Union. It does not include land that is merely owned by the federal government, nor does it include land on which some activity is conducted that is regulated by the federal government. The federal criminal laws which have been enacted which are not on the above list are ostensibly based on the constitutional power of the federal government to "regulate" interstate commerce, but it was never the intent of the Framers that the power to regulate was the power to prosecute criminally, nor was "interstate commerce" intended to include everything that ever crossed a state border, or might cross a state border, or is done by a party that operates across a state border, or that might "affect" interstate commerce. This "interpretation" of the interstate commerce clause is clearly unconstitutional, and amounts to amending the Constitution by statute instead of by the amendment procedure the Constitution prescribes.

Q: That may be the way things once were, back when this country was founded and during the frontier era, but does the concept of the Militia have any relevance for today?

A: As much as it ever did. This country still faces threats from foreign enemies. Maybe not invasions on the ground from a foreign army, but terrorists, guerrillas, and criminal gangs, either foreign or domestic, are a growing threat. Urban riots are always possible, and looters are a potential threat following natural or manmade disasters. The police can't be everywhere, and rising crime means that everyone must be prepared to act on his own or in cooperation with other citizens to enforce the laws until the professionals can assume control of the situation. Everyone must also be prepared to perform emergency services until emergency professionals can take over, sometimes under circumstances in which they must also be prepared to use armed force.

Q: Come on! I'm not trained or equipped to act as a policeman, a fireman, or a paramedic. How can I be expected to do that?

A: Because you are an American citizen, and it goes with being a citizen, whether you like it or not. What you need to do is get trained and get equipped.

Q: Come on! It takes those guys years to learn those skills. Wouldn't I just be doing more harm than good if I tried to get

involved?

A: No one is expecting you to jump into a raging river to save someone from drowning if you don't know how to swim, but what you should do is learn swimming and lifesaving. Likewise, you can learn other skills that may be needed, and keep some of the tools you might need. For a reasonable investment of time and money, most citizens can prepare themselves to function effectively in most such situations, sometimes even better than the professionals. For example, statistics show that in shootouts against criminals, law enforcement professionals are five times more likely to hit innocent bystanders than armed civilians are. Part of this may be due to the civilians being on the scene first, and therefore knowing who the bad guys are and are not, but it also indicates that civilians are more careful, and often more skilled. Many civilians are also skilled in the unarmed martial arts, skills that many law enforcement departments actually forbid their members from learning and using, fearing lawsuits.

Q: Are you really saying we should all carry guns all the time?

A: Most of the time, yes. It's not that difficult. After a while, you barely notice it.

Q: Wouldn't there be a lot more deaths and injuries from firearms if everyone carried them all the time?

A: Well, we don't say everyone should always carry one. Obviously, some people shouldn't. But they are exceptional. Most people will carry them safely and responsibly, with a little training. Of course there will be some additional incidents if most people carry most of the time. Professional police and military have accidents and incidents, but we don't disarm them, because on balance we are better off if they carry most of the time. Same with most other civilians. On balance most of us will be better off if most people carry most of the time, after receiving training, and with regular practice. In a large population of people, there will always be a certain number of injuries resulting from the possession and use of any common implement. But firearms, with proper use, are remarkably safe. Statistics show that injuries are more likely to be caused by common appliances like toasters and vacuum cleaners than by firearms.

Q: You are talking about handguns, but what about military-style semiautomatic rifles, such as those banned under the recent Crime Act? Are they really good for anything but killing people?

A: In a sense, all functional firearms are for causing potentially deadly injury to their targets, but their primary purpose is to provide a credible deterrent against criminal attack. In a tactical situation in which both parties are armed with semi-automatic or full-automatic weapons, such weapons shift the balance in favor of the defender, and partially offset the advantage of surprise enjoyed by the attacker. It is not practical to carry them everywhere, but in many situations, like defense of a fixed position, such as one's home or workplace, they can provide the margin of survival.

It should also be pointed out that military-style rifles, whether semi- or full-automatic, are the primary weapons for use in performing militia duties, and therefore bans against such weapons

are in violation of the provisions of the U.S. Constitution, such as Art. I, Section 8, and the Second Amendment, which provide for the Militia and recognize the right to keep and bear arms.

Q: What does the U.S. Constitution say about Militias?

A: Art. I, Section 8, provides that the U.S. Congress can adopt regulations for organizing and training of the Militia, but that the organizing and training of the Militia, and the appointment of its officers, shall be done by the States. The Second Amendment mentions the Militia as an important reason why the people have a right to keep and bear arms.

Q: So, what do federal laws say about how the states should organize and train their Militias?

A: Not much. They define who may be required to respond to a call-up of the Militia by the President. In 10 USC 311, what we might call the obligatory militia is defined as "all able-bodied males at least 17 years of age and, except as provided in section 13 of title 32, under 45 years of age who are, or have made a declaration of intention to become, citizens of the United States." But they don't say anything about how the States should organize and train their Militias. The States are left to do so on their own.

Q: So, what do State constitutions and laws say about organizing and training their Militias?

A: Again, not much. They define what most of them call the reserve militia, usually as "able-bodied males" of age ranges that vary from one state to the next, typically as 16 through 59. Some of them also provide for a State Guard, which is a full- or part-time organization which is what the Framers of the Constitution called a select militia. Not the full Militia.

Q: What about the National Guard? Aren't they the Militia?

A: A part of it, yes, as we all are. But although they are available to the State for certain purposes, they are organized and funded under the constitutional authority to raise armies, not the authority to call up the Militia. As such, they are part of the federal military, not what the Framers meant by the term Militia.

Q: Wait a minute. You first defined the Militia as the entire population, except for a few officials. Now we have these laws that define it as "able-bodied males" within a certain age range. Which is right?

A: Although everyone is in principle subject to being called to Militia duty, it has long been felt that few situations are likely to arise in which absolutely everyone would need to be called up. Therefore, the law tries to identify a subset of the entire Militia that may be required to keep arms and to be kept in a state of readiness. In the event of an actual call-up, these would also be joined by volunteers who, while not falling within the definition of who may be required to be thus prepared and to respond to a call-up, would respond anyway and who would be an asset. We call the first group of those who may be required to stay ready and to assemble the obligatory militia. We call the volunteers the voluntary militia. The combination of the obligatory militia and the voluntary militia is

the ready militia. That is what the Framers of the Constitution had in mind when they used the term Militia. They envisioned a militia system like that of Switzerland.

Q: Well, if neither federal or state laws call for the organizing and training of the ready militia, does that mean they are prohibited?

A: No. A few state laws prohibit armed groups, but the legislative history of such laws shows that they were directed at criminal gangs , not at the organizing and training of the Militia by local leaders or officials. Any such laws would be unconstitutional if interpreted in that way.

Q: So, who has the authority to call up the Militia?

A: Anyone can call up the Militia. Anyone at all. Historically, the call-ups have usually been issued by local officials, such as sheriffs or mayors, but in the absence of action by such officials, the people can assemble on their own initiative, called up by anyone who offers a credible reason to assemble.

Q: Wow! You mean I could call up the Militia in my area?

A: That's right. Indeed, if you are aware of some situation that requires the Militia to be called up, then you are obliged to issue a call-up if you can't get some official to do so.

Q: Wouldn't it cause some alarm to a lot of people if we did that?

A: It might. That is why it is a good idea not to wait until an emergency occurs before you do it. The Militia should be kept in a state of readiness between emergencies. That way people will not see the call-up as something unusual and alarming.

Q: Aren't there laws against alarming people that could be used against any unofficial assemblies like that?

A: Longstanding constitutional precedent is that one has to actually direct arms against an innocent person and specifically threaten him for it to qualify as "alarming the public". And the person has to be innocent. If one has reasonable grounds to believe that he has or is about to commit a crime, then an armed threat may be appropriate.

Q: Wouldn't such armed assemblies of the Militia, or at least such part of it as responds to the call-up, be vigilantes if they tried to do that?

A: No, vigilantism is the improper assumption of the role of judge, jury, and executioner, not the role of investigator or apprehender.

Q: What about the rights of the accused? Where do they come in here?

A: The Militia is obliged to treat the accused the same way the police are expected to treat them. That means informing them they have a right to remain silent and to be represented by an attorney. They must use no more force than is necessary to prevent them from either escaping or committing a crime.

Q: All this is fine in theory, but when was the last time the Militia was actually called up officially?

A: The President last called up the Militia on the West Coast in 1942.

Q: What about unofficially?

A: Depends on what you would consider a call-up, but a notable example occurred in Athens, Tennessee, in 1946, when a group of returning veterans discovered that the sheriff was stealing the local election. They issued a call-up, and laid siege to the court house. Despite a great deal of gunfire on both sides, no one was injured. The sheriff surrendered, and the Militia provided for an honest count of the votes. Dealing with vote fraud is a proper Militia role.

Q: Was that really necessary? Couldn't they or others in a similar situation use peaceful, legal methods to enforce voting laws?

A: Not necessarily. There may be no one to enforce the law except the Militia. The crime may be a conspiracy of local, state, and federal officials who can effectively block any official enforcement action. There is evidence that most computerized elections are subject to being rigged at any time, and that they are rigged with some regularity, at the direction of parties on the national level that control official law enforcement agencies at all levels. Of course, the rigging is very subtle. It can be done right under the noses of pollwatchers. Investigating such rigging is a somewhat involved operation, but it can be done, and should be before resorting to Militia action. The same situation may occur with other kinds of official corruption or abuse. The Militia may be the only honest law enforcement activity remaining.

Q: Are you saying that the main purpose for reviving the Militia tradition is to fight official abuse and corruption? Have things really come to that?

A: Sadly, yes. Most people are blissfully unaware of how bad things have become, or prefer not to see it or think about it. But it is approaching the point where more and more of them will be unable to sustain their state of ignorance or denial. It would be better to act now before things get much worse. The longer we wait, the more likely that there will be violent conflict, and we really don't need another civil war.

Q: Can you provide evidence of any of this?

A: There is plenty of evidence. It is readily available for those who want to make a little effort to find it. The sponsors of this document can direct you to much of it. After you read some of it, and talk to government insiders who are providing information to patriotic citizens about what is going on, you will readily understand why it is now time to activate the Militia across the country.

Q: My god! This sounds like you are proposing to overthrow the government. What do you hope to accomplish by doing this?

A: There is reason to believe that the U.S. Constitution has already been effectively overthrown by a conspiracy centered in the intelligence and military establishments, with ties to the financial, industrial, media, and criminal establishments. We seek to restore constitutional governance, hopefully by balancing the power of this cabal with armed militia units in every state and linked together across the country. That, and exposing their operations to public view, will hopefully bring reform without the need to resort to violence, just as it happened in the former Soviet Union.

Q: The Constitution already overthrown? C'mon. Who's going to believe that? Maybe there is more and more corruption and abuse, but everything seems normal, for the most part.

A: Yes, the conspiracy is secret and subtle. It tries to avoid abusing too many people or people who are too prominent, but just try to expose it or raise these issues, and you will soon discover that you live in a police state and not in a constitutional republic.

Q: Maybe it is better to just not try to expose it or raise these issues, but keep a low profile and hope this conspiracy will overlook me?

A: Well, leaving aside the fact that to do so is to betray what generations of Americans have fought and died for, and that such a position is dishonorable and cowardly, we have evidence that whoever you are, a low profile won't help you. Sooner or later, you will have to face it. Better now than later. Now we can prevail. Later it may be too late.

Q: Look, it's not just me. I have a family to think about. Maybe I should just join this conspiracy you talk about?

A: Join a conspiracy that depends on secrecy to survive? You don't join them. They recruit you. If they don't, there's no way in. And no protection for you even if you do join them. They are not noted for protecting their own people. Deals with them are Faustian bargains, long on promises and short on delivery. That is one reason we are getting more and more defectors, despite the personal dangers. You have to ask what kind of country and world you want your children and grandchildren to live in.

Q: It all seems so incredible. What could these people want that would cause them to overthrow the Constitution? What more could they get that they don't already have?

A: They may be driven by fears of losing what they have, or they may foresee some crisis they feel will require them to have more power than they already have. What did the Nazis want? Or the Italian fascists? Or the Japanese in WWII? Or Stalin? To us these fascists, for that is what they are, collectively, seem irrational. But they were not strong on reason or wisdom. The allies may have won WWII and the Cold War, but fascism is alive and well and running Western countries, including our own.

References:

Morgan Norval, ed., The Militia in 20th Century America: A Symposium, 1985, available from Gun Owners Foundation, 5881

Leesburg Pike, Falls Church, VA 22041.

Stephen P. Halbrook, *That Every Man Be Armed*, 1984, available from the Independent Institute, 134 98th Ave, Oakland, CA 94603.

James M. & Kenneth F. Collier, *Votescam: The Stealing of America*, 1992, available from Victoria House Press, 67 Wall St #2411, New York, NY 10005.

For more information contact:
Constitution Society

6900 San Pedro #147-230, San Antonio, TX 78216, 210/224-2868

PO Box 1339, Muscatine, IA 52761, 319/264-2511

(This file was found elsewhere on the Internet and uploaded to the Patriot FTP site by S.P.I.R.A.L., the Society for the Protection of Individual Rights and Liberties. E-mail alex@spiral.org)