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Federalizing troops: Legal? Justified?

Steve Bakke  June 23, 2025



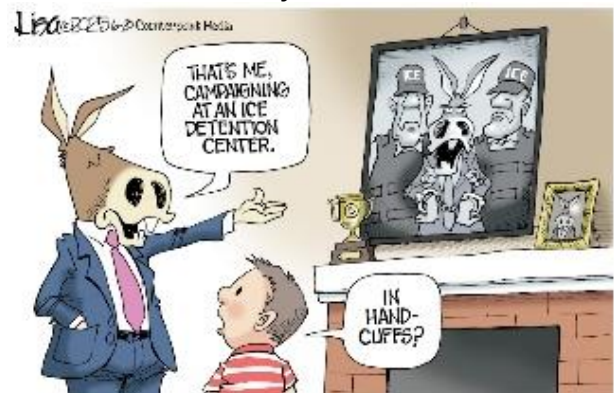
Federal ICE agents have been in Los Angeles carrying out Federal warrants by arresting illegal immigrants with prior criminal convictions. I understand there were other arrests of many illegal immigrants accompanying the targeted criminals. Anti-ICE demonstrations and riots broke out, and the agents needed security to do their job.

As a demonstration of the legitimacy of this effort, following is a summary of the most serious existing convictions for those targeted and arrested during the first few days of the L.A. operation: murder/attempted murder, theft, assault, burglary, robbery, rape or intended rape, child molestation or rape, battery, firearm offenses, DUI, domestic violence, hit-and-run, narcotics violations, vehicular manslaughter, and throwing Molotov cocktail at police.

By their own admission, local law enforcement was already overwhelmed by the initial violence and destruction. Another compelling reason they couldn't help was California's status as a sanctuary state. More discussion about that later in this commentary.

President Trump responded by activating 4,000 California National Guard and 700 Marine troops. Their assignment was security for ICE agents while enforcing immigration laws, and federal building security. Given the violence, federal agents needed added security.

Governor Newsom and L.A. Mayor Bass strenuously objected, claiming the violence and destruction was under control. They joined the demonstrators in opposing the federal government's enforcement of immigration law. They claimed federalizing troops for this purpose is illegal. However, National Guard troops have been activated for domestic deployment several times without a governor's approval, but not since 1965 during the civil rights era.



Following are three prior examples of governors being bypassed when presidents federalized the National Guard. In 1957, President Eisenhower federalized the Arkansas National Guard to provide security for black students enrolling at a Little Rock High School. Governor Faubus was opposed to the action.

In 1962, President Kennedy federalized Mississippi National Guard to provide security for James Meredith attending the University of Mississippi. Eventually Kennedy called up over 30,000

troops to quell the riots. They were enforcing federal law while many students, citizens, and government officials opposed doing so. Federal officers, including Border Patrol agents, were attacked with rocks and Molotov cocktails. Cars were burned and buildings ransacked.

In 1965, President Johnson federalized the Alabama National Guard to protect participants in the “Selma to Montgomery” march which Alabama Governor Wallace opposed. In each case, the governor was opposed to enforcing a federal law.

President Trump is relying on US Code, Title 10, Section 12406 which states in part: “Whenever -.....there is a.....danger of a rebellion against the authority of the Government of the United States; or.....***the President is unable with the regular forces to execute the laws of the United States*** (my emphasis), the President may call into Federal service members and units of the National Guard.....” California insists that the Governor must first approve.

The all-important context for this situation is California’s status as a sanctuary state. Repeating what I previously stated, that fact effectively prevented state and local law enforcement from actively assisting ICE agents while enforcing immigration law. Additionally, in this case the demonstrations and riots were already overwhelming local law enforcement. Given those facts, Trump federalized troops to provide security for ICE agents.

Finally, we learned something during 2020’s “Summer of Love.” When violence isn’t suppressed, it “burns” longer and hotter. The mostly peaceful demonstrations of outrage following George Floyd’s death were hijacked by thugs and anarchists. Burning, looting, and destruction lasted months with little resistance from far too many intimidated governors and mayors.

The biggest losers that summer were minority businesses and homeowners. When President Trump suggested protecting properties by federalizing the National Guard, he was effectively shouted down. Understanding what happened and how it happened is essential for avoiding prior mistakes.

Political commentator Deroy Murdock recently reminded us of another lesson. He commented like this : “Democrats can’t make up their minds when it comes to Trump and the National Guard.” On January 6, 2021 Trump pre-authorized up to 10,000 National Guard troops “to make sure it was safe.” The democrat D.C. Mayor, according to some reports she was supported by Speaker Pelosi, turned down that request until several hours too late.



Now, years later, democrats are complaining that Trump didn’t federalize the troops on that awful day in D.C. Following are just two representative complaints. Nancy Pelosi asked, “Why weren’t the National Guard there to begin with?” CNN’s Kaitlan Collins stated, “Trump sat on his hands.....refused to send out the National Guard.....Despite desperate calls.....Trump did nothing.” These are outrageous displays of “gaslighting” at its finest.

Back to 2025 California, Newsom sued the President, claiming his actions were illegal. After a District judge ruled against Trump ,the 9th Circuit Appeals Court stayed that decision while evaluating the ruling. The appeals court quickly ruled in favor of the President, but the District judge intends to hold another hearing. Perhaps the Supreme Court will eventually rule.

I’m predicting that federalizing the National Guard, given these facts, will ultimately be found justified and legal.