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SB 901: Combating Extremism in the National Guard

SUMMARY

SB 901 would prevent enlistment or require an administrative discharge for members of the California National and State Guard if that person engages in extremist activity.

BACKGROUND

The California National Guard is a part of the National Guard of the United States, a dual federal-state military reserve force. When under the control of its state governor, National Guard functions range from limited actions during non-emergency situations to full scale law enforcement of martial law when local law enforcement officials can no longer maintain civil control.

Within the National Guard, there are several procedures in place to discipline and effectively discharge guard members who participate in extremist organizations and activities. The effectiveness of these procedures came under scrutiny after it was found that several service members participated in the attempted insurrection on January 6th. Service members' involvement in the insurrection had made the spread of extremism a significant issue for the U.S. Military and has prompted investigations as well as regulatory changes that further define extremism along with prescribing punishments.

In 2021, the Defense Department Inspector General reported 281 extremism investigations. Of those cases, 92 involved some sort of punishment by the military and 83 were referred to civilian law enforcement. In last year's Annual Threat Assessment published by the Office of the Director of National Intelligence, the U.S. intelligence community deemed racially or ethnically motivated violent extremism -- with adherents such as white supremacists, Nazis and other racist groups -- the "most lethal threat" to Americans and are recruiting members of the military.

Last December, the Pentagon published an in-depth report on prohibited extremist activities in the U.S. Department of Defense. The report found that the Pentagon's effort to counter extremism was mired in a

hodgepodge of sometimes contradictory policies, security clearance reviews that struggled to weed out extremists, and data collection efforts that were flawed and produced "inconsistent data at best." The problems uncovered by the report appear to be even more acute in the National Guard, where the members are far more attached to their communities than the military and its policies of equal inclusion.

Existing Law

The California National Guard has adopted army regulations that provide examples of prohibitive extremist activities/affiliations, but commanders are given a range of punishment options, one of which is an administrative discharge.

Administrative discharge is a process applied to service members who have violated military law or conduct in some substantive way but whose case doesn't warrant a court-martial.

SOLUTION

Members of the California National Guard may be administratively discharged for many reasons. This can range from failing physical fitness requirements and poor attitude, to disruptive and tortious conduct. If a member of the National Guard is found to have advocated or participated in extremist activity, a standardized approach should be applied.

SB 901 would prevent the enlistment of or require the administrative discharge of current members if they actively participate in, among other things, advocating for or engage in the use of unlawful force, unlawful violence, or other illegal means to deprive an individual of their rights under the United States Constitution or the laws of the United States.

FOR MORE INFORMATION

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