

GOVERNMENT OF PUERTO RICO
LA FORTALEZA
SAN JUAN, PUERTO RICO

Administrative Bulletin Number: OE-2020-081

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. WANDA VÁZQUEZ-GARCED, FOR THE PURPOSES OF AUTHORIZING THE USE OF NATIONAL GUARD PERSONNEL AND EQUIPMENT IN SUPPORT OF THE RESPONSE TO THE EMERGENCY CAUSED BY THE COVID-19 PANDEMIC IN OUR ISLAND

- WHEREAS:** The Government of Puerto Rico has a constitutional responsibility to safeguard the lives AND safety of its citizens.
- WHEREAS:** Section 4 of Article IV of the Constitution of Puerto Rico establishes that the Executive Power shall be exercised by the Governor, who is the Commander in Chief of the military and has the authority to call upon the military and summon the “*Posse Comitatus*” in order to prevent or suppress any serious disturbance of the public order.
- WHEREAS:** The Military Code of Puerto Rico, Act 62 of June 23, 1962, as amended, known as the “Military Code of Puerto Rico”, empowers the Governor to call upon the Armed Forces of Puerto Rico, which are composed of the National Guard and the State Guard and any other military force organized under the laws of the Commonwealth of Puerto Rico, such as the Active Military State Service, to aid civil authorities, to maintain or reestablish the public order, and to provide essential services when required to ensure the public’s safety, and when civil authorities are not capable of ensuring that the public wellbeing is safeguarded.
- WHEREAS:** Section 207 of the Military Code also empowers the Governor to order the Puerto Rico National Guard, or any of its components, to enter Active State Military Service when required for public safety. Said statute also authorizes the Governor of Puerto Rico to order the use of Puerto Rico National Guard equipment, assets and personnel when it is a viable option for providing specialized services related to health care, technical engineering equipment, or education when they are not reasonably available from civil, public, or commercial sources. Any mobilization must be made in accordance with the Agreement for the Sustainable Reform of the Puerto Rico Police. Under the condition that any agency that requests such services shall pay, using any funds available to it, for the costs incurred by the National Guard while providing its services.
- WHEREAS:** Article 6.10 of Act 20-2017, as amended, better known as the

“Puerto Rico Public Safety Department Act,” empowers the Governor to decree a state of emergency in the Island, and to “enact state regulations, orders, plans, or measures to address emergency or disaster situations, or to modify them at his or her discretion,” as well as to “dictate, amend, and annul any regulations and to issue, amend, and rescind any orders as he or she deems convenient in order to govern during the state of emergency or disaster.”

WHEREAS: In strict Constitutional Law, the State may restrict individuals’ fundamental rights if a compelling State interest is proven and it constitutes the least onerous means. In this case, public health constitutes a compelling interest in light of a pandemic for which there is still no vaccine and, therefore, it is imperative to employ measures whose implementation may affect fundamental rights.

WHEREAS: On March 12, 2020, Administrative Bulletin OE-2020-020 was issued to declare a state of emergency in the entirety of our archipelago due to the COVID-19 pandemic.

WHEREAS: Based on the state of emergency at a global level, and in line with the national emergency declaration issued in the United States by President Donald J. Trump, the Government of Puerto Rico has issued several executive orders, starting in March of this year, in intended to implement certain restrictive measures to control the spread of COVID-19 within our Island.

WHEREAS: While there are no effective treatments or a vaccine for the prevention of COVID-19, the new social and workplace rules will include physical distancing, which will have an impact on our day-to-day activities and on the way we carry out business activities.

WHEREAS: Constitutionally guaranteed rights do not prevent the State from reasonably regulating the enjoyment of said rights, provided that these regulations are based on a compelling interest, such as public health, and that it is the least onerous means of doing so.

THEREFORE: I, WANDA VÁZQUEZ-GARCED, Governor of Puerto Rico, by virtue of the powers vested in me by the Constitution and the Laws of the Government of Puerto Rico, hereby declare and order the following:

Section 1: Due to the increase in COVID-19 cases, the Government of Puerto Rico has requested that the National Guard collaborate with the Department of Health and Public Safety and the Interagency Oversight Team by assigning unarmed personnel to enforce compliance with the executive orders issued to

control COVID-19 within Puerto Rico. The national Guard of Puerto Rico shall not intervene in actions inherently related to policing such as performing arrests, searches, or imposing administrative or criminal fines, and therefore their assistance complies with the Agreement for the Sustainable Reform of the Police.

Section 2:

The state of emergency declared in OE-2020-020 meets the requirements for any of the relevant agencies to activate “emergency procurement” protocols to acquire the materials and services that may result necessary to respond to this emergency. The Director of the Office of Management and Budget shall oversee the responsible use of these acquisitions by agencies of the Executive Branch and may require any reports and establish any budget controls deemed necessary to fulfill this responsibility.

Section 3:

The Department of Public Safety (DSP, for its Spanish acronym) shall prepare and present to the Governor, the Director of the Office of Management and Budget, and the Secretary of the Treasury, an estimate of the funds required to carry out the work ordered during the state of emergency.

Section 4:

Based on the estimate submitted by the DSP and the Adjutant General of Puerto Rico, the Secretary of the Treasury and the Director of the Office of Management and Budget shall assign to the Secretary of the DSP and the other agencies involved (as determined by the Secretary of the Treasury and the Director of the Office of Management and Budget) the funds available for complying with what has been stipulated in this Executive Order. The Secretary of the Treasury and the Director of the Office of Management and Budget are hereby authorized to establish, using any available funds, including the Emergency Fund, a special budget to cover the expenses necessary to carry out the efforts related to surveillance and collaborating with the Puerto Rico Police, in accordance with the Agreement for the Sustainable Reform of the Puerto Rico Police.

Section 5:

The Adjutant General of Puerto Rico is hereby granted the authority to determine the units and troops that must enter Active State Military Service for the surveillance and collaboration operation authorized herein.

Section 6:

The Adjutant General is hereby authorized to incur any reasonable expenses inherent to the activation of troops and the equipment of the Armed Forces of Puerto Rico in the categories indicated below:

A. Compensation for personnel from the Armed Forces of



Puerto Rico called upon to enter Active State Military Service under this Executive Order, as established in the Military Code.

- B. Food and supplies for active military personnel.
- C. Materials and other items necessary to carry out the duties assigned herein to the Armed Forces of Puerto Rico.
- D. Insurance premiums that must be paid to carry out the duties authorized herein.
- E. Fuel, lubricants, and oils necessary for land, air, and maritime transportation of the Armed Forces of Puerto Rico used during the authorized operation.
- F. Rental fees for vehicles used to transport active personnel.
- G. Medical and hospital expenses incurred due to injuries sustained or illnesses contracted by members of the Armed Forces of Puerto Rico while carrying out their duties under the mobilization authorized herein until they are released by the relevant medical authorities.
- H. Any other necessary expenses incurred in order to carry out the mission assigned herein to the Armed Force of Puerto Rico.

Section 7:

The Secretary of the Department of Treasury and the Director of the Office of Management and Budget are authorized to assign any economic resources necessary for carrying out the operation authorized herein (as determined by the Secretary of the Department of Treasury and the Director of the Office of Management and Budget) to the Adjutant General of the National Guard.

Section 8:

The Adjutant General of the National Guard shall submit detailed reports concerning the expenses incurred as of the conclusion of the operation while fulfilling the duties and responsibilities delegated through this Executive Order to the Secretary of the Department of Treasury and the Director of the Office of Management and Budget.

Section 9:

DEFINITION OF THE TERM “AGENCY”. For the purposes of this Executive Order, the term “Agency” refers to any agency, instrumentality, office, or department of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of its name.

Section 10:

DEROGATION. This Executive Order supersedes any other executive order that may be inconsistent with the provisions herein, to the extent of such inconsistency.

Section 11:

VALIDITY. This Executive Order shall enter into force



immediately and shall remain in force until the state of emergency declared due to the COVID-19 pandemic in Puerto Rico concludes, or until it is amended or annulled by a law.

Section 12: **NON-CREATION OF ENFORCEABLE RIGHTS.** This Executive Order is not intended to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

Section 13: **PUBLICATION.** This Executive Order must be filed immediately with the Department of State and the widest possible publication is hereby ordered.

IN TESTIMONY WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed in San Juan, Puerto Rico, on this 13th day of November of 2020.



WANDA VAZQUEZ-GARGED
GOVERNOR

Enacted in accordance with the law on this 13th day of November of 2020.



RAUL MARQUEZ HERNANDEZ
SECRETARY OF STATE