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"AND THAT GOES FOR DOMESTIC WARS TOO!"
THE WEINBERGER DOCTRINE AND DOMESTIC USE OF THE MILITARY

BY

COLONEL JAMES A. CATHCART

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USAWC MILITARY STUDIES PROGRAM PAPER

"AND THAT GOES FOR DOMESTIC WARS TOO!"
THE WEINBERGER DOCTRINE AND DOMESTIC USE OF THE MILITARY

AN INDIVIDUAL STUDY PROJECT

by

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13 March 1989

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AUTHOR: James A. Cathcart, Colonel, U.S. Marine Corps

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"AND THAT GOES FOR DOMESTIC WARS TOO!"
THE WEINBERGER DOCTRINE AND DOMESTIC USE OF THE MILITARY

CHAPTER I

INTRODUCTION

Dear Congressman:

I am one of your constituents from San Diego County and I am writing about the terrible problem we have here with illegal immigrants and drugs. Every day when I take my child to school we have to pass gangs of Mexicans lounging around on street corners and in the parking lots of the stores. We live within walking distance from school but my daughter is terrified of the illegals so I have to take her.

Besides this, last week an undercover operation in my older son's high school resulted in the arrest of 30 students for selling drugs! All I see in the news and papers is the drug problem and the immigration problems. I know that these problems are not just local - the entire nation is under attack by drug pushers and aliens!

Mr. Congressman, my question is this: I read that we spend hundreds of billions of dollars on our military. In San Diego County there are thousands of Marines and a great many Naval facilities. We are not at war with any foreign country and from what I read about Mr. Gorbachev's ideas it doesn't look like we are likely to fight a big war. So why can't we use all these military forces our taxes have bought to fight an enemy that is at war with us right now - aliens and drug peddlers? I would like an answer.

/S/ YOUR FAITHFUL CONSTITUENT

Many Americans - Congressmen among them - would like such an answer. The national fight against the importation and use of illegal drugs has been described as a "War" from the White House down to the local level. The influx of illegal immigrants over the border from Mexico and from other primarily Hispanic countries is growing and having tremendous impact upon the border states. Civilian law enforcement agencies have been unable to stem the tide of drugs and aliens and there is no reason to believe that their efforts will be significantly more effective in the future. There are increasing calls for the use of the military to combat these problems.

The military has generally resisted such calls, citing Posse Comitatus,² force structure limitations, and the degradation of training and readiness that would inevitably result. However, as the pressure from lawmakers and citizenry increases these answers will not be sufficient. When the United States is engaged in very real wars on its borders, the military cannot justify refusal or reluctance to participate on the ground that they must stand ready for a major conflict that fewer and fewer Americans believe will occur. Limited war - limited by strategy, political considerations, or resources - is the most likely arena for use of this nation's armed forces. Refusal or reluctance to take part because it is difficult, unsatisfying, and degrading to readiness for Armageddon may well lead to reduced support for the military - both financially and morally. Instead the military must analyze such demands in the

light of national interest rather than parochial concerns - and be able to clearly communicate the results of that analysis to the nation and its leaders.

In 1984 the then Secretary of Defense, Caspar Weinberger, attempted to devise a benchmark against which any recommendation for use of U.S. military forces overseas should be measured. This quickly became known as the "Weinberger Doctrine." However, there has been no similar benchmark offered for analysis of recommendations for domestic use of the military.

It is the intent of this paper to briefly describe the threats that have been the basis for recent proposals to use the military in a domestic role, discuss the history of such domestic use, and to determine whether or not the "Weinberger Doctrine" is an appropriate tool for analyzing the pros and cons of military intervention in these problems.

ENDNOTES

1. Colonel Paul Jackson Rice, "New Laws and Insights Encircle the Posse Comitatus Act," Military Law Review, Vol.104, Fall 1984, pp.109-139. This opening paragraph is a paraphrase of Col. Rice's opening.

2. The Posse Comitatus Act, 18 U.S.C. 1385, is a law originally enacted in 1878 prohibiting the use of the Army (and later the Air Force), to enforce civilian law except in a few narrowly defined circumstances. While the law does not specifically refer to the Navy or Marines, departmental policy imposes the same restrictions as does the Act. The term posse comitatus refers to the ancient duty of every male freeholder to rally to the call of the King or his agents.

CHAPTER II

THE THREAT

Military education and analysis concentrates heavily on "The Threat" - the external dangers that the nation faces. It is the Threat that drives military strategy, force structure, and doctrine. More and more, however, the public sees the Threat as internal instead of external. The Russians pose a threat to our national physical security - a very strong national interest. The dangers posed by the massive flood of illegal drugs into the country and the surging tide of illegal immigrants are much more immediate and have much more present affect upon our citizens than does the traditional communist military threat. This is because these are threats to national interests in addition to physical security. The rule of law and faith in the ability of properly constituted authority to protect society fades when drug smugglers freely bring their goods into the U.S; when sellers deal from parkside "drug malls" in plain view of besieged residents, and when streets are lined with illegal immigrants. The clamor to deal fiercely with these problems puts great pressure upon the legislature, the judiciary, and law enforcement to subordinate our traditional legal and moral protections to the crowd's demand for "justice."

Interests should define the threat. President Bush calls for a "gentler and kinder" America. Illegal immigration and drug trafficking will drive us in the opposite direction - uprooting our political, social, and economic traditions unless controlled.

ILLEGAL DRUGS

It is hard to pick up a newspaper or to watch an evening news show on TV without being deluged in figures designed to prove that the drug epidemic of the 1980s is the most pervasive form of evil we face. We are told that 50 to 60% of all crime is drug related and that 90% of drugs reaching this country come in through organized crime syndicates. Businesses lose \$50 billion annually because of drug related absenteeism and mistakes. Four million Americans regularly use cocaine with another 10 million occasional users.¹

It is reported that the federal government's drug-enforcement budget increased from \$853 million in 1982 to \$1.5 billion in 1986 and other reports claim that the dollar value of narcotics traffic is estimated at anywhere from \$27 billion to \$110 billion a year.²

Another article states that an estimated 12 tons of heroin, 65 tons of marijuana, and 150 tons of cocaine are being supplied to American users in just one year - Americans who consume 60% of the world's production of illegal drugs.³

How do these drugs reach the American consumer? Section 481(h) of the Foreign Assistance Act requires the President to annually submit a list of major narcotics producing and/or transit countries to the Congress and to certify whether or not they have taken adequate steps, either alone or in cooperation with the United States, to control narcotics production, trafficking, and money laundering. In 1988 the list of "certified" countries included The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong King, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, and Thailand. Another source states that all of the cocaine and heroin, and 75% of the marijuana supply available in the United States originates from outside the U.S. - primarily from South America, Mexico, and the Caribbean.⁴

These drugs cross the international borders of the United States in a myriad of ways. Individuals, aircraft, ships, automobiles, disguised in freight shipments...there is little limit to the ingenuity of the drug infrastructure and little limit on opportunities. For instance, in 1986 passengers and conveyances entered the U.S. in these ways:

- * 265 million persons at U.S. land borders
- * 3 million sea containers
- * 4.4 million land containers
- * 30 million air passengers
- * 421,000 commercial aircraft
- * 125,000 non-commercial vessels and small boats

- * 84,000 commercial vessels
- * 250,000 private general aviation aircraft
- * 94 million vehicles
- * 4 million sea passengers²

While the statistics speak eloquently of the lives snuffed out by drug overdoses, the real danger to the nation comes from the tears to the national emotional, social and economic fabric inflicted by the expansion of the drug infrastructure.

When officers are required to provide urine samples, what is the affect upon the legitimacy of their office and their authority in times of great stress and personal danger?

Attacks upon the 4th Amendment's protections against illegal search and seizure are fortified by horror stories of "drug fiends" let loose.

Children turn their parents in to the police for using drugs and are hailed as brave heroes and heroines.⁴

The press fills the pages and airwaves of the popular media with stories of how the drug culture is heavily armed and outgunning the police. In response the police upgun to automatic weapons and larger caliber ammunition, and weapons sales among the general public increase.

Even the conservative estimates of the money being siphoned off into the drug trade speak of tens of billions spent - money not available for the social and economic needs of Americans. Known criminals become folk heroes among the poor and desperate, and crime crawls out of the dark underworld and sets up business

in the parks, the malls, the schools while officialdom inveighs against it but appears powerless to resist effectively.

The cost is tremendous in money, in shattered lives, in the lessons that the law may be mocked profitably, in the stress upon our civil liberties, and the blows to the common social fabric.⁷

IMMIGRATION

The second massive problem involving the sanctity of the nation's international borders is that of immigration. In Miami, officials fear the influx of up to 100,000 illegal immigrant refugees from Nicaragua alone during 1989.⁸ It is estimated that more than six million Mexican illegals have crossed the border into the U.S. since the early 1950s. The Border Patrol "readily admits that its agents are no match for the thousands (of aliens) making the border plunge every day."⁹

Even more startling statistics are easy to find. The immigration and birth-rate trends point to dramatic shifts in the demographics of the United States unless changes are made. If current patterns hold, by 2080 over one half of all Americans will be Asian, Hispanic or black! In California the non-Hispanic white will be in a minority within 25 years and by 2035 only 43% of Texans will be non-Hispanic whites. It is estimated that within the next century about 40% of the nation's workers will be immigrants who arrived in the U.S. after 1980 or their descendants.¹⁰

Where do these immigrants come from? A Senate Judiciary Committee report in 1985 states that "with respect to illegal immigrants, it is estimated that Mexico is the source of at least 60% of the total, other parts of Latin America 10-15%, and the Caribbean area 5-10%."¹

While the danger to the country of the drug traffic is obvious to all, just what are the dangers posed by immigration? After all - that's how this country was populated and the words engraved on the base of the Statue of Liberty celebrate our openness to those who are drawn by the magnetism of America's freedoms.

In his paper, Illegal Immigration - A Threat to U.S. Security,¹² Dr. Samuel T. Francis points out a number of potential problems to include:

1. Foreign terrorists blending into the flow of illegal immigrants to get into the U.S. for the purpose of attacking Americans and their institutions;

2. Terrorists not interested in U.S. targets nevertheless entering the U.S. to raise funds, acquire weapons, and generally use the liberal political atmosphere to create a "safe haven" for their activities;

3. Large groups of illegal (or legal) immigrants importing existing political and ideological conflicts and differing attitudes about the use of violence in the political process;

4. Large groups of immigrants providing fresh fodder for organized crime - both indigenous and imported - resulting

In the creation of many new organized crime "families;"

5. Traffic in weapons and narcotics being heavily connected with illegal immigration or border crossing.

These reasons are completely separate from the obvious social problems that will be caused by the demographic shifts listed previously. How will traditional white America react to a perception that it is being taken over by waves of immigrants? Who will pay for the services required by the tremendous increase in population among a class that needs a wide range of social services and is not perceived as contributing to the cost? It does not take much of an imagination to predict stresses on governmental and social institutions of an unprecedented nature. Add a serious recession or depression, often warned of by economic Cassandras worried by the spiraling debt and trade imbalance, with its resultant social dislocation and unemployment and the potential for serious internal unrest is evident.

ENDNOTES

1. William F. Buckley, "Drugs Drugs Everywhere - and No Solution In Sight," National Review, Vol.37, 9 August 1985, pp.54-55
2. "The Enemy Within," Time, Vol.128, 15 September 1986, pp.58-66
3. "America on Drugs," U.S. News & World Report, Vo.101, 28 July 1986, pp.48-55
4. Ann B. Wroblewski, Statement of the Assistant Secretary for International Relations Matters Before the Senate Committee of Foreign Relations, 14 March 1988
5. 1987 Report of the National Narcotics Intelligence Consumers Committee (NNICC) Cited in Letter from LtCol J.P. Terry, USMC, Head of Code JAR (Research and Policy), Headquarters U.S. Marine Corps
6. "The Enemy Within," p.60
7. The White House Conference For a Drug Free America, Final Report, Washington, June 1988, p.1-7
8. Terry letter
9. Morris S. Thompson, "Miami Fears New Flood of Hispanic Refugees," Washington Post, 15 January 1989, p.A21
10. "Can the Trek to El Norte Be Curbed?" U.S. News & World Report, Vol.102, 19 January 1987, pp.22-26
11. "Profile of Tomorrow's New U.S.," U.S. News & World Report, Vol.101, 24 November 1986, p.32
12. Samuel T. Francis, "Illegal Immigration - A Threat to U.S. Security," Conflict Studies #192, The Centre for Security and conflict Studies, October 1986, p.3

CHAPTER III

DOMESTIC USE OF THE MILITARY - HISTORY AND PROPOSALS

There is ample evidence that our borders are under attack, both by smugglers of illegal drugs and smugglers of human beings. The invasion of drugs and immigrants is imposing enormous financial and social costs upon the United States and none of the palliatives that have been enacted seem to have had any significant impact on the problems.

The solution? To many Americans it is to recall the WWI recruiting cry "Send in the Marines!" Or, in this case, to send in the full weight of the massive U.S. military presence to seal the borders against this invasion.

HISTORY

Americans have never been happy with military encroachment into what was normally viewed as civil matters. The British practice of quartering troops in requisitioned civilian property was a matter of great dissatisfaction to 18th century colonists - a dissatisfaction that resulted in the Boston Massacre. The Declaration of Independence cited grievances such as quartering of troops on private property, failure to maintain discipline among those troops and to punish them for infractions against civilians, and subordination of the civilian power to the military.¹

The Framers of the Constitution spent considerable time discussing the proper role of a federal military. They feared a standing army because of the threat to the primacy of the civil authorities. However, when the Judiciary Act of 1789 contained the first posse comitatus legislation allowing the federal marshals to "command all necessary assistance" in the execution of their duties, the legislation did not limit the nature of the assistance and it became common for the marshals to call on military assistance.

Later, the Attorney General issued an opinion stating that the marshal could call on the assistance of the federal military in internal matters "as though it were a civilian posse" although the military power "must be kept in strict submission to the civil authority."²

During the Civil War the strictures against military involvement in civil affairs were relaxed even more and after the war there were few in force at all. Military districts governed by military commanders were established in the rebel states and military forces were used to quell disorders on a regular basis.³ As the Southern states regained their franchises the anger over this practice increased until the Posse Comitatus Act was passed.

Most of the discussions of posse comitatus have been occasioned by the provision of advice or equipment to civil law enforcement authorities and by the actions of individual military personnel. However, on at least three occasions since

the Act was passed. significant Federal military forces have been deployed to enforce civilian laws.

In 1921 there was a serious outbreak of violent, armed robberies of post offices and mail trains throughout the United States. The Postal Service had few guards and the regular civil authorities seemed inadequate to stem the tide of crime. President Harding directed the Secretary of the Navy to "detail as guards for the United States Mails a sufficient number of officers and men of the United States Marine Corps to protect the mail."

About 2500 Marines were dispatched across the country to guard trains, trucks, outlying post offices and distribution stations. The presence of the Marines completely stopped the robberies and they were, in fact, never challenged during the four months they served.

Again in 1926 a spate of robberies caused the Postmaster General to call on the Marines and 2000 men were again dispatched on guard duty. This time two .45 caliber rounds were expended but again there were no robberies and the Marines were relieved after four months and a newly recruited force of civilian postal guards took over.⁴

In 1957 a Federal court ordered authorities of the State of Arkansas to admit nine black children to Little Rock Central High School. Arkansas Governor Orville Faubus had been fanning the segregationist flames in Little Rock and used the Arkansas National Guard to prevent the black children from attending

school rather than to ensure their attendance. When a Federal Judge ordered him to cease hindering the ability of the children to attend Little Rock Central, Faubus pulled the National Guard off the streets entirely, leaving security to a badly outmanned police force. What followed was predictable - violence and mob rule on the streets of Little Rock.

President Eisenhower moved immediately, directing the Secretary of Defense to use federal troops to enforce the federal court order. The 82d Airborne Division responded, sending the 327th Battle Group to Little Rock. The troops immediately dispersed the crowds of rioters and ensured the ability of the black children to enter Little Rock Central.⁵

RECENT PROPOSALS

Dr. Francis states: "In the short term, modification of federal law to allow the US Army to enforce border security would probably be the single most effective means of curtailing massive levels of illegal immigration as well as infiltration by terrorist or criminal elements. Such modifications have already been made to allow US military participation in anti-narcotics efforts."⁶

Perhaps because of its higher visibility and the fact that drug abuse is pervasive across the country rather than being limited to border states, civilian calls for military participation in that "war" have been more widespread. Mayors

have inveighed for additional military assistance⁹ and have been joined in the chorus by governors.¹⁰

Congressmen have supported these requests and have been successful in passing legislation that has both eased restrictions on military involvement imposed by posse comitatus⁷ and directed increasing participation by DOD in the drug war - culminating in the FY 1989 National Defense Authorization Act which assigned DOD responsibilities to serve as the single lead agency of the Federal government for detection and monitoring of illegal aerial and maritime transit of illegal drugs into the U.S.¹⁰

Congress is not necessarily content with the degree of assistance the military is providing even under the current legislation. When Secretary of Defense Carlucci was testifying before a joint session of the Senate and House Armed Services Committees he was pressured by congressmen who "want the military to take a more aggressive role in spotting and arresting cocaine and marijuana smugglers."¹¹ Representative Jack Davis of Illinois said "When you have a war, who do you call in?...You call the military."¹²

ENDNOTES

1. Major Clarence I. Meeks III, USMC, "Illegal Law Enforcement: Aiding Civil authorities in Violation of the Posse Comitatus Act," Military Law Review, Vol.70, Fall 1975, pp.86-87
2. Ibid., p.89
3. Ibid., p.89
4. "Mail Thefts Stopped When Marines Arrived," Fortitudine, Spring 1976, pp.10-11
5. "Quick, Hard and Decisive," Time, Vol.LXX, 7 October 1957, pp.21-25
6. Francis, p.24
7. Peter Kerr, "25 Mayors Ask Military to Aid in Drug Battle," New York Times, 27 June 1986, p.86
8. Joel Brinkley, "Five Governors Urge Military to Combat Drug Smugglers," New York Times, 18 January 1985, p.A10
9. Public Law 97-86 eased the restrictions of the Act by authorizing indirect military involvement in law enforcement by loaning equipment, sharing intelligence, providing supporting personnel, assisting with training, and sharing information gained incidental to normal military missions.
10. This was one of the recommendations of the White House Conference for a Drug Free America, published in its Final Report, June 1988, p.142
11. "A War on Drugs With Real Troops," Science, Vol.241, 1 July 1988, p.13
12. Ibid. p.13

CHAPTER IV

WHAT IS THE "WEINBERGER DOCTRINE"

The civilian and military leadership of the Department of Defense are faced with the facts previously described: Significant and highly publicized threats to United States national interests combined with current and increasing calls for the use of the armed forces to deal with the threats. So far the response has been generally to resist those calls, arguing that the use of the military would reduce readiness and training, that military forces are unsuitable to perform the necessary tasks, and that the federal budget cannot afford the dollar costs.¹

Articles cite military officials worrying that the armed forces will be dragged into an open-ended conflict that will drain military resources already stretched thin by American commitments world-wide. DOD frets that "the politicians in Washington will be tempted to use the military as a bottomless well of manpower instead of allocating money and people to less dramatic aspects of the struggle against drug use in the United States."²

When a RAND Corporation study stated that a larger military role would do little to seal the borders of the U.S. against drug smuggling, military officials lined up to support the study's conclusions.³ However, congressmen have not been convinced. Rep. Duncan Hunter of California stated in 1986 that

the Pentagon had overstated the dimensions of the interdiction effort, claiming that "[I]f we can't intercept a couple of Cessnas per hour we better forget about SDI."⁴ Despite the fact that the RAND study came out in 1988, Rep. Hunter has not changed his opinion.⁵ This is hardly surprising given the fact that one study done for JCS came to the conclusion that a program to seal the borders would cost \$14 billion for aircraft, \$6 billion a year for operations and require 90 infantry battalions, 50 aerostat balloons, 1000 fighters, 160 cruisers, and much more!⁶

Individual officers have responded to demands for increased military involvement on the borders with appreciation for the fact that there are larger issues at stake than simply the relatively efficiency of using the military in such a role or the degradation of readiness to defend against the traditional threat.

"Our forefathers were very intelligent when they placed the military under civilian control, and limited the military role to national defense" one senior officer said, "I would hate to see a dangerous precedent established by setting the military up against American civilians. It may not seem much at this time, but what's going to happen 10,15,20 years from now?"⁷

Unfortunately, neither JCS nor top DOD civilians have elucidated a corporate position on the political advisability of using the federal military power within the borders of the United States, limiting themselves to the hardware and personnel based arguments discussed previously.⁸

On November 28, 1984 Secretary of Defense Caspar W. Weinberger gave a speech to the National Press Club in which he attempted to define the political-military parameters that must be considered prior to committing U.S. military forces to combat overseas. These parameters, popularly known as the "Weinberger Doctrine" have served as a basis for a great deal of comment - immediately following the speech, and in the years since. Regardless of the various opinions about the appropriateness of the specific parameters, the "Weinberger Doctrine" has served well as a theoretical framework for the discussion of the propriety of U.S. military intervention in foreign lands. Can it also serve that purpose for our discussion of the propriety of domestic use? Before that question can be answered it is necessary to examine the Doctrine.

THE SIX TESTS

Secretary Weinberger spoke at a time when the proper use of U.S. military forces on foreign shores was a topic of fervent debate. Recent events included the Beirut bombing, the invasion of Grenada, and turmoil in Central America. Secretary Weinberger discussed the difficulty of arriving at a consensus as to when such military intervention was called for. He scolded both those who would use military forces as the reaction of first choice and those who would place so many moral and political restrictions on deployment that they could never posit a

situation where military force would be appropriate. He then set out "six major tests" to be applied when considering the use of U.S. combat forces abroad. They were:

(1) THE UNITED STATES SHOULD NOT COMMIT FORCES TO COMBAT OVERSEAS UNLESS THE PARTICULAR ENGAGEMENT OR OCCASION IS DEEMED VITAL TO OUR NATIONAL INTEREST OR THAT OF OUR ALLIES;

(2) IF WE DECIDE IT IS NECESSARY TO PUT COMBAT TROOPS INTO A GIVEN SITUATION, WE SHOULD DO SO WHOLEHEARTEDLY AND WITH THE CLEAR INTENTION OF WINNING;

(3) IF WE DO DECIDE TO COMMIT FORCES TO COMBAT OVERSEAS, WE SHOULD HAVE CLEARLY DEFINED POLITICAL AND MILITARY OBJECTIVES;

(4) THE RELATIONSHIP BETWEEN OUR OBJECTIVES AND THE FORCES WE HAVE COMMITTED - THEIR SIZE, COMPOSITION, AND DISPOSITION - MUST BE CONTINUALLY REASSESSED AND ADJUSTED IF NECESSARY;

(5) BEFORE THE UNITED STATES COMMITS COMBAT FORCES ABROAD, THERE MUST BE SOME REASONABLE ASSURANCE THAT WE WILL HAVE THE SUPPORT OF THE AMERICAN PEOPLE AND THEIR ELECTED REPRESENTATIVES IN CONGRESS;

(6) THE COMMITMENT OF U.S. FORCES TO COMBAT SHOULD BE A LAST RESORT."

Although the Secretary mentioned Vietnam only briefly in his speech, it is clear that the specter of the national disunity the Vietnam war created was close at his shoulder as he spoke. Protesters objecting to the Administration's policies in Central America carried signs urging "No More Vietnams" and virtually any suggestion that American military forces be used anywhere in the world was met with professors and pundits wringing their hands over the likelihood that the situation "would turn into another Vietnam."

CRITICAL REACTION

Not realizing that they had heard only the latest salvo in the continuing intramural battle between Weinberger and Secretary of State Shultz, the national columnists weighed in quickly with reaction to the six tests. In the New York Times there was question about whether the importance of a situation to the national interest was likely to be as clear as demanded by Secretary Weinberger before the time came to make the decision whether or not to intervene.¹⁰

Again in the Times, William Safire shared the misgivings about the national interest and added two more - a concern that we should not forswear limited military action short of a Grenada-like sledgehammer after the mouse, and the apparent reluctance to commit military force except in the most no-risk, high-applause border clashes. Safire quotes Edward Luttwak as

saying "Its like a hospital that does not want to admit patients. Some hospital administrators want the perfect state of maximum readiness and patients make a mess."¹¹ Safire believed Weinberger's Doctrine exhibited moral blindness to those instances where the United States would commit its forces on the side of Right and Justness even in the absence of all the criteria for a quick and easy war. He stated: "If the use of American power is to become as constrained and self-denying as Secretary Weinberger says it should be, then we are wasting a hundred billion dollars a year on force we will never apply."¹²

The conservative William F. Buckley bridled at the requirement that there must be "some reasonable assurance of support" from Congress and the American people." In his words: "The rallying of public support is the task of the political leadership. But here Weinberger sets an impossible standard. The sine qua non of popular support is success. But if the mission is indeed 'vital' then it has to be carried out, even at the risk of failure "¹³

The New Republic called the speech an "Isolationist document"¹⁴ and there were other critical comments in the media. However, the battle was really joined on the 9th of December 1984 when Secretary of State George P. Shultz gave a speech before the convocation of Yeshiva University in New York. Entitled "The Ethics of Power", Secretary Shultz' speech took dead aim at what he perceived to be Mr. Weinberger's unwillingness to use the expensively purchased military power of

the U.S. "Power and Diplomacy must always go together or we will accomplish very little in this world." stated Mr. Shultz. "The hard reality is that diplomacy not backed by strength will always be ineffectual at best, dangerous at worst." He went on to state that there is never any guarantee of public support for the use of force except to use it in a moral way in keeping with the highest principles of the United States.¹⁵

The difference of opinion between the two Cabinet Secretaries was novel. The Secretary of Defense - the Warrior Chief - was apparently looking for reasons to keep from fighting, and the Secretary of State - the Statesman - was rattling sabers and rockets with the best of them.

Not without glee, the commentators took up the cudgels, enjoying the ability to sit on the sidelines offering advice while saying "Let's you and him fight!" Richard C. Gross in Defense Science pointed out that Shultz had been calling for a hard military line against terrorism for months - fearing that otherwise the U.S. would become known as the "Hamlet of nations - forever debating what to do, never acting with conviction."¹⁶ Gross also pointed out that Weinberger had the military establishment on his side, citing a comment by CNO ADM James Watkins in November 1984 Seapower magazine to the affect that military force must be used only as a last resort.

CURRENT VITALITY

With Mr. Weinberger's resignation as Secretary of Defense, comment upon his Doctrine generally faded away. The doctrine was never declared to be official United States policy - nor was it declared moribund. The military, however, has not forgotten it. Discussions of the Weinberger Doctrine are part of the U.S. Army War College's classes on National Security Policy and the debate over the Six Tests still appears in the military press. A recent writer, basing his remarks upon a study of Clausewitz, applauds the Doctrine for its requirement that the U.S. "not take the first step without considering the last" and states his hope that the spirit and content of the Doctrine will endure in Mr. Weinberger's absence from DOD.¹⁷

In response, another writer argues that the Weinberger Doctrine does not require consideration of the first and the last step, but requires instead knowledge of the outcome before commencing the action else how will public support be assured? He argues that it is not the role of the military leader to debate criteria for the use of force. Rather, they should limit themselves to telling the civilian leaders "We are ready now, Sir" rather than "Let's see if the six tests are met."¹⁸

It is clear that the Weinberger Doctrine is still being discussed and used as a benchmark for analysis of recommendations for use of U.S. military forces. The next step is to determine if the Doctrine is useful to analyze the proposals to use our forces in the domestic role.

ENDNOTES

1. Not suprisingly, the same concerns have been voiced in response to previous requests for the military to take part in domestic affairs. An article in the Marine Corps Gazette discussing the 1921-22 use of the Marines to guard the mails stated:

"The present Marine Corps is too small in numbers to properly carry out its assigned mission in support of the Fleet as an Expeditionary Force, and if the duty of guarding the United States mails were assigned to it as a permanent job an increase in numbers would be required or some of the important duties required by the mission would have to be slighted."

"The Mail Guard," Marine Corps Gazette, December 1926, pp.264

2. "Reluctant Recruits," Newsweek, Vol.108, 28 July 1986, p.31

3. John Burlage, "Study Opposes Bigger Military Role in Drug War," Army Times, 18 April 1988, p.41

See also John Burlage, "Using Military More Won't Stop Smuggling of Drugs, Study Says," Air Force Times, 11 April 1988, p.14

4. "Defense Demurs," Time, 29 September 1986, p.36

5. "A War on Drugs With Real Troops," Science, Vol.241, 1 July 1988, p.13

6. Ibid.

7. John Burlage, "Hill Painting Pentagon Into Drug War Corner," Army Times, 30 May 1988, p.10

8. Interview with CDR Roger B. Bertsch, USN, Executive Assistant to LtGen Stephen G. Olmstead, Deputy Assistant Secretary of Defense for Drug Policy and Enforcement, 24 January 1988

9. Ethics and Public Policy Center, Ethics and American Power, Washington, 1985 pp. 7-8

10. Leslie Gelb, "Weinberger's War Guide: Follow the Direct Route," New York Times, 2 December 1984, p.2E

11. William Safire, "Only the Fun Wars," New York Times, 3 December 1984, p.A23

12. Ibid.

13. William F. Buckley, "The Causes of War," National Review, 28 December 1984, p.13

14. Ethics and American Power, pp.11-17
15. "The Capgun Doctrine," The New Republic, 31 December 1984, p.6
16. Richard C. Gross, "The Weinberger Manifesto," Defense Science, February-March 1985, p.11
17. Major John F. Otis, Jr., USMC, "Clausewitz: On Weinberger," Marine Corps Gazette, February 1988, p.17
18. Captain John L. Byron, USN, "A Response to 'Clausewitz: On Weinberger'," Marine Corps Gazette, January 1989, p.17-18

CHAPTER V
IS THE WEINBERGER DOCTRINE APPLICABLE TO
DOMESTIC USE OF THE ARMED FORCES?

To briefly review the Six Tests of the Weinberger Doctrine, it requires:

(1) A situation where the vital interests of the U.S. are at stake;

(2) Commitment of sufficient forces to win;

(3) A clear understanding of political and military objectives;

(4) Continual reappraisal and adjustment of the relationship between our forces and the objectives;

(5) Reasonable assurance of support from Congress and the American people;

(6) An understanding that commitment of U.S. military forces should be a last resort.

Does the domestic situation caused by the drug and immigration problem meet these Six Tests? Let's look at them individually.

VITAL INTERESTS

The influx of illegal drugs and immigrants poses significant risks to the national wellbeing of the United States.¹ We face a flood of illegal drugs and immigrants. The

cost is enormous, figured not only in the dollars that go to drug syndicates but also the losses in productivity, the human wreckage, and the strain on the national fabric caused by the apparent inability of law enforcement to have a significant affect on a criminal enterprise that is so lucrative. The immigration problem brings with it the threat of terrorism, strains upon the economic soundness of public welfare and education systems in the impacted states, and the looming possibility of tremendous alterations in the ethnic makeup of the U.S. with consequent civil unrest and destabilization.

The first test would appear to be met.

GO IN STRONG TO WIN

This test is less dependent upon the scenario than it is on the will of the national and military leadership. "Gradualism," such as was the case in Vietnam, was one of the obvious targets of this test when stated by Mr. Weinberger. Yet that is exactly where we stand today in military participation in the drug war. We started by loosening the restrictions of posse comitatus, then moved on to making DOD responsible for detection and monitoring of maritime and air targets entering the U.S. Again we move step by step allowing the enemy time to match technology with tactics - and sometimes with similar technology. But is this a situation where a massive commitment of military forces sufficient to close the at-risk borders would be appropriate? The Weinberger Doctrine presents no answer to that question.

CLEARLY DEFINED POLITICAL AND MILITARY OBJECTIVES

This test is definitely applicable. The gradualistic increase in the use of the military has not been accompanied by clearly delineated political and/or military objectives by the national leadership - at least none that are realistic. The Defense Authorization Act giving DOD responsibility for detection and monitoring of maritime and airborne targets initially required DOD to close the borders to such illegal entry and crossing within 45 days. The lack of information and understanding that goes into such a proposal is stupefying.

It does not take the powers of a seer to understand that the presence of large US military forces on our borders and the necessary significant military interference with civilians would pose unprecedented political problems. This would be even more so if we had no realistic and specified military objectives - and the objectives would have to be more specific than simply closing the borders of the U.S.

REASSESSMENT OF OBJECTIVES AND FORCES

Again, an uncontroversial truism - at least it would seem so if it had been done in Vietnam. Clearly applicable to domestic use of the armed forces.

REASONABLE ASSURANCE OF SUPPORT

This is the test that received the most critical comment after the publication of Mr. Weinberger's speech. Although of questionable validity in the international arena due to the impossibility of determining in advance the public reaction to what the government plans to do and how it does it, this would be a vital concern when considering domestic use of the military.

While the America of the Reconstruction years is long past, the attitudes that led to the passage of posse comitatus are not. Even use of troops to enforce a federal court order being openly defied by a segregationist governor brought protest.² Kent State, with its images of civilians falling before military gunfire, is still remembered. The present military activities are out of the sight and notice of ordinary citizens except for the few that are stopped at sea by Navy ships with Coast Guardsmen aboard.

A radical increase in military responsibility for enforcing drug and immigration laws would, of necessity, require arrest powers, for if there were sufficient law enforcement personnel to make the arrests now there would be no need for the troops. This would require revision or repeal of Posse Comitatus. This kind of historically unprecedented military presence in domestic affairs could not be implemented without public support - support that would have to exceed mere acquiescence.

COMMITMENT OF MILITARY FORCES AS A LAST RESORT

Again, here is a test questioned by commentators when applied to the international arena but perhaps better suited to the domestic arena. Dealing with foreign use, the comment pointed out that the "last resort" may arrive before the "latest resort." In other words, if force is always the last thing used it may be too late for it to have affect - or at least to be used without unacceptable consequences. So the last resort may come rather early in the scenario.

On the other hand, given the unfamiliarity of a domestic military presence in law enforcement or border security affairs, there are additional reasons beyond those offered by Secretary Weinberger for setting out this sixth test. The question raised by a four year veteran of the DOD Task Force on Drug Enforcement always remains, "What will the reaction be if we shoot down a private aircraft flown by a dentist from Columbus with his family aboard just because he's too lazy to follow proper flight procedures?"^a

ENDNOTES

1. Senator Alfonse M. D'Amato of New York states: "Drug traffickers pose a threat as great as, if not greater than, any other this nation faces." David C. Morrison, "The Pentagon's Drug Wars." National Journal, 6 September 1986, p.2104
See also Francis supra.
2. "Quick, Hard & Decisive," Time, 7 october 1957, pp.21-25
3. CDR Bertsch interview

CHAPTER VI

CONCLUSION

The Weinberger Doctrine was a controversial staking out of a position by the Secretary of Defense in his ideological struggle with Secretary of State Shultz when it was published. There were varying opinions at the time of the Doctrine's logical and moral foundations, but it served to spark a vigorous discussion of the propriety of the use of American military power in foreign commitments. Now the focus of discussion has shifted from foreign commitment to domestic issues.

The nation is faced by two serious threats at its borders - the nearly uncontrolled flow of illegal drugs and immigrants carrying the consequences of great tears in the social fabric. The nation must mobilize its resources to meet these threats and the appropriate role of the military is a vital question.

"We can't do it/It won't work/It will harm readiness" are the rote responses from military leaders, but they do not fall on receptive ears. The nation pays hundreds of billions of dollars from its finite amount of treasure to support the largest and most sophisticated standing peacetime military in history, and if the military opts not to take part in these battles it will forfeit far more than readiness...it will forfeit the trust and support of the nation unless its responses are soundly grounded in logic and reason that can be clearly and convincingly communicated to congressman and citizen.

We cannot be ignorant of the second and third order affects of military reluctance to take part. There must be a greatly increased law enforcement presence at, over, and around our borders if these battles are to be successfully fought. If that presence is not military then we must fund a tremendous increase in the size and equipment of civilian law enforcement agencies - DEA, FBI, ATF, Border Patrol, etc.- such funding very likely to come from the DOD budget. If we drag our feet on taking part do we encourage the formation of a Soviet-style internal police organization here in the United States? Are greatly increased federal law enforcement forces - difficult to remove or downsize after the battles are won - preferable to use of military force which is already in being and capable of being returned to other missions?

A selfish point of consideration is the increasing pressure upon force structure as a result of U.S. budgetary problems, European and Asian politics, and public perceptions that the Soviet threat is diminished. Might not enthusiastic participation in a domestic role create a need for spaces, equipment and money that might prevent reduction in size of the armed forces at a time when many military leaders fear that the public may be otherwise stampeded into a dangerous reduction in U.S. military strength by a canny Soviet foreign policy?

So as the argument rages, can the Weinberger Doctrine again serve as a basis for logical consideration of the military role in the domestic battles? Yes - because it is even more

applicable to the domestic arena than it was to the foreign arena for which it was drafted. In addition, it changes the focus of the discussion. Right now, the DOD position reflects apparent reluctance to engage in a difficult mission with little chance of spectacular victory and medal ceremonies. Using, the 3d, 4th, and 5th tests from the Weinberger Doctrine shifts emphasis to a concern for the proper role of the Armed Forces in domestic law enforcement; the necessity for developing a well thought out set of objectives, both political and military, before deploying such a morally and physically powerful force within the U.S., and the importance of relating the force used to the objectives.

The nation is at an important crossroads in dealing with the severe domestic threats to the public safety and welfare. A choice to deploy the military in a major internal law enforcement role is one that would have great affect upon all Americans and should not be made without vigorous public discussion of the costs of such a decision. Use of the logical framework afforded by Secretary Weinberger's Doctrine will ensure that the discussion is carried on at an intellectual level reflecting the challenge to traditional American values these domestic crises pose.

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