

**STRATEGY
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**WAR FIGHTING AND SUPPORT TO THE NATION:
AN IDENTITY CRISIS IN AMERICA'S MILITARY MISSION**

BY

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ABSTRACT

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There was a time when the men and women who joined the American military services knew what they were all about. Fighting, and winning, America's wars. The size of the military grew and shrunk depending on the relative peacefulness of the world and the perceived or actual threat to America's security. In between periods of deployment and conflict, the job of the military was to take whatever resources were allotted to them by Congress and train in preparation to fight the next war. During times of actual conflict like that experienced during the Civil War, both World Wars, Korea, and Vietnam, the American public focused its full attention on the details of how its sons and daughters performed their war fighting mission. During times of relative peace, the military services were generally treated with benign neglect by the public they prepared to serve. If the military was thought of at all, it was usually to question why so much tax money was needed to support a military with no obvious mission. After World War II and the Korean Conflict, the threat of communist aggression and America's determination to resist that aggression, led to what became known as the Cold War. Unlike other inter-war periods, the Cold War necessitated that the United States maintain a relatively large military force, even without a state of general conflict, even during the Vietnam War. While we maintained an overly large military force with limited war fighting responsibility, it was possible for the services to assume non-traditional missions that provided service to the nation. Tasking the military to perform missions such as aid to law enforcement, counter-terrorism, counter-drug, and domestic disaster relief duties has become commonplace. These missions have become accepted as legitimate for the military. The military services have become much smaller since the end of the Cold War. America has taken its 'Peace Dividend' and no longer supports the maintenance of a large standing military force. This paper will examine the question of whether, given the smaller force, the time has come to return the military's focus to its war fighting mission and away from support to the nation.

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The Armed Forces are the Nation's military instrument for ensuring our security. Accordingly, the primary purpose of US Armed Forces is to deter threats of organized violence against the United States and its interests, and to defeat such threats should deterrence fail....Our Armed Forces' foremost task is to fight and win our Nation's wars. Consequently, America's Armed Forces are organized, trained, equipped, maintained, and deployed primarily to ensure that our Nation is able to defeat aggression against our country and to protect our national interests.¹

—General John M. Shalikashvili

INTRODUCTION

The primary mission of America's armed forces is to fight and win wars. This is a fundamental truism repeated so often that it is virtually burned into the consciousness of senior American military and political leaders. It is also a phrase that is glibly spoken by those same leaders whenever they announce their national military strategy, fight for or against the military budget at the Pentagon or on Capitol Hill. It is also what generals and politicians proclaim to appreciative public audiences on Independence Day, Memorial Day, and Veterans' Day. Ask almost any American what comes to mind when he thinks about the Army, Navy, Marine Corps, and Air Force. More than likely, the answer is going to be related to fighting wars, either past wars or wars yet to be fought.

War fighting, and the potential for war fighting, has traditionally been the justification for the tax burden necessary to build, train, equip, and maintain formidable American military

forces. As long as there has been a perceived threat to American security and freedom, the nation has been willing to sustain a war fighting capability that was adequate to provide for national defense. Americans generally accept the premise that a heavy investment in military strength is the price we must pay to keep the world safe for America and democracy.

Since the collapse of the Soviet Union and the end of the Cold War, the mission of the armed forces has been gradually shifting away from its traditional focus on war fighting. The absence of a dominant threatening peer competitor has created pressure to shift national resources from defense programs to domestic programs.² It now appears that although war fighting is still proclaimed as the military's primary mission, the missions that are most often performed by the services are in the domestic area. These domestic missions are collectively grouped under the umbrella of 'service to the nation'. It is undeniable that diverting steadily shrinking military resources to domestic support missions creates risk to national security. Any mission that detracts from war fighting, or training for war fighting, has an adverse impact on the military's ability to perform its true primary mission.

This paper will examine the growing emphasis on the military's role in domestic support to civil authorities. It will also assess the impact that civil support is likely to have on the military's ability to perform its primary mission to fight

and win America's wars. The paper will focus primarily on the proper role of military forces in support to civil authorities in the areas of counter-terrorism and general law enforcement, counter-drug activities, and domestic disaster relief efforts.

The Fundamental Nature of Military Organizations

Are military organizations fundamentally different from other large, structured organizations? More precisely, are military organizations designed to be different in ways that make the military unsuitable as an instrument for activities other than fighting wars? No less distinguished an expert in all things military than Clausewitz strongly believed that the character of a military organization was uniquely martial. As described by Clausewitz:

Military virtues should not be confused with simple bravery, and still less with enthusiasm for a cause. Bravery is obviously a necessary component. But just bravery, which is part of the natural make-up of a man's character, can be developed differently in him than in other men. In the soldier the natural tendency for unbridled action and outbursts of violence must be subordinated to demands of a higher kind: obedience, order, rule, and method. An army's efficiency gains life and spirit from enthusiasm for the cause for which he fights, but such enthusiasm is not indispensable. War is a special activity, different and separate from any other pursued by man. This would still be true no matter how wide its scope, and though every able-bodied man in the nation were under arms. An army's military qualities are based on the individual who is steeped in the spirit and essence of this activity; who trains the capacities it demands, rouses them, and makes them his own; who applies his intelligence to every detail; who gains ease and confidence through practice, and who completely immerses his personality in the appointed task.³

It really does not require the insight of a Clausewitz to recognize that a military organization represents much more than a group of young men and women who are physically vigorous and have ready access to weaponry. That description applies to most street gangs in major cities around the world. The essence of an army is its ability to provide, on demand, a highly disciplined, focused, coordinated, and competent application of great force. The object of this controlled application of forces is most often to 'kill people and break things.' These are capabilities that are not ordinarily appropriate when military forces are employed in a civil support role.

Certainly there are some military capabilities that could be applied to both war fighting and support to civilian authorities. Soldiers who erect hundreds of tents to shelter themselves in the field can as easily erect hundreds of tents to shelter homeless civilians following the devastation of a major hurricane in Florida. Following a recent natural disaster, a state governor requested federal assistance by asking the federal government to distribute donated clothing and disposable diapers to citizens who had been displaced from their homes. It is true that American soldiers can very ably establish a world-class distribution point to hand out clean underwear and Pampers to needy Americans. However, there should be serious reservations about whether doing so is the best way to utilize military

forces. The basic question is whether in an era of leaner military resources and growing military commitments around the world, we need to reexamine our policy on the use of military forces for domestic support missions. In light of the inevitable adverse impact it has on the primary mission to fight wars, is support to the nation a misuse of America's military?

LAW ENFORCEMENT AND DOMESTIC COUNTER-TERRORISM

Current United States law on the use of federal military forces in a law enforcement or domestic counter-terrorism role severely constrains the employment of federal forces. The primary source of the constraint is the Posse Comitatus Act which provides:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both.⁴

The statutory proscription of the Posse Comitatus Act has been extended as a matter of policy to the Navy and the Marine Corps.⁵ There is no similar proscription concerning the United States Coast Guard which is under the peacetime jurisdiction of the Department of Transportation. The Coast Guard routinely performs domestic law enforcement duties as a part of its peacetime mission.

The Posse Comitatus Act is applicable when determining the federal military response because most acts of terrorism that

occur within the sovereign territory of the United States are essentially criminal acts, rather than acts of war. Admittedly, they are often criminal acts on a grand scale with many casualties and national and international ramifications. Quantitatively there is certainly a difference between major terrorist incidents like the bombing of the Alfred P. Murrah Federal Office Building in Oklahoma City or the bombing at the World Trade Center in New York, and the many bank robberies and homicides that happen every day in America. However, qualitatively, in the eyes of domestic United States law, there is little difference between using a bomb to murder hundreds of people and using a gun to murder a single person. Both are treated as homicides and are investigated and prosecuted under applicable state or federal law.

Legally, the distinction between terrorism and other common law crimes is a matter of degree, not the nature of the offense. There is little to suggest that investigating potential or actual terrorist activities or responding to terrorist incidents is a military mission. Many domestic terrorist incidents are committed by American, not foreign, citizens. Even those incidents that are shown to have been committed by foreign nationals often cannot be proven to have been foreign state-sponsored conduct.

Congress has created some specific limited exceptions to the Posse Comitatus Act that allow the Army and the Air Force to be

used in narrowly prescribed areas related to law enforcement. Authority exists for military assistance to civilian law enforcement officials in the areas of information sharing, use of military equipment and facilities, training and expert advice.⁶ Specific limited exceptions to Posse Comitatus also include assistance in the area of drug enforcement and as a response force in the event of terrorist use of weapons of mass destruction. However, as a general proposition, the Posse Comitatus Act does not permit routine use of military forces in a domestic law enforcement role, even to combat a threat to national security as serious as terrorism.

The Posse Comitatus Act exists as a bulwark against indiscriminate use of the military in a law enforcement role. Periodically the issue of whether to repeal or amend the Posse Comitatus Act is raised. If the Act is repealed or amended, it would be legally possible to expand the military's ability to assist civil authorities in general or specific law enforcement responsibilities. This would be a serious mistake. Whatever benefit might be realized by expanding the military role in domestic crime fighting or counter-terrorism would be more than offset by the adverse impact it would have on the war fighting capability of the smaller military force we have today. It would also risk alienating the American public from its own armed forces.

Posse Comitatus, Counter-Terrorism, and War Fighting

This paper will not extensively address the wisdom and advisability of Congress in enacting the original Posse Comitatus Act. However, a brief discussion of its history and the context in which it was enacted is important in order to carefully consider the question of its continued vitality as American law and policy.

The Posse Comitatus Act was originally enacted to prohibit the routine and much resented use of federal forces to impose Reconstruction Laws in the former Confederate States after the American Civil War. Eventually, after the war, indigenous civilian authority was reestablished in the South. Enthusiasm for the practice of using the Army to enforce unpopular federal and federally mandated state laws diminished in the North and resentment for the practice grew in the South. The combination of a much smaller federal force, the easing of North-South animosity, and the strong desire of the states in the South to reassert their natural sovereignty over their own territory, led to the passage of the Posse Comitatus Act. This statute effectively keeps responsibility for most civil law enforcement activities out of the hands of the military. It reaffirms the long-held Constitutional principle that the federal armed forces exist to protect the nation, not as an instrument of power to use against the people.

There is no doubt that today the armed forces play a very significant role in combating terrorism as a matter of national

security. In his annual report to the President, the Secretary of Defense reiterates that combating terrorism and performing counter-terrorist missions are key missions for the armed forces.⁷ The Secretary of Defense has declared that in order to protect American citizens and interests from the threats posed by terrorist groups, "the United States needs units available with specialized counter-terrorist capabilities. From time to time, the United States might also find it necessary to strike terrorists at their bases abroad or to attack assets valued by the governments that support them."⁸ In many respects, this statement simply announces the obvious. The military has always been the appropriate instrument of national power to use when it is necessary to reach out and strike external threats to national security. There are clearly times when counter-terrorism is an appropriate military mission.

Many aspects of a military counter-terrorism mission, even when it includes aspects of traditional domestic law enforcement, are not controversial. The first, and most obvious military counter-terrorist mission is as the Secretary of Defense described. We would naturally use the military to strike back at the territory and assets of an nation that engages in acts of terrorism against the security of the United States. Less obvious perhaps, but just as legitimate as an appropriate mission of the armed forces, is the role that military commanders play in

providing for the security of the installations and units for which they bear command responsibility.

Commanders of CONUS installations are responsible for the security of their respective military installations. Their responsibility extends to protecting persons and property located within their jurisdiction from criminal conduct, including terrorist acts and threats. This responsibility includes taking prudent action to safeguard the installation from terrorist attack and responding in a law enforcement capacity when a terrorist act occurs on the installation. Similar authority resides with commanders of units, installations, and bases outside the United States. They have the inherent authority to protect the persons, places, and property under their control. The extent to which they act, or react, to terrorism beyond the gates of their installations is determined by local authorities and the status of forces agreements between the United States and the host nation.

Within the civilian communities of the United States, primary law enforcement responsibility for domestic terrorism rests with law enforcement officials at the federal, state, and local levels.⁹ Within the federal government there is a scheme that determines specifically which federal agency has the lead role in responding to particular incidents. Common sense dictates that "responsibility for responding to potential and actual acts of terrorism depends on the likely targets. The Department of

Justice, through the Federal Bureau of Investigation (FBI), is the lead agency for domestic terrorism and the Department of State is the lead agency for international terrorism."¹⁰ If a domestic or international terrorist incident calls for a military response, the Department of Defense takes a lead role, often employing special forces such as Delta Force or the Navy's Seal Team 6.¹¹ Under extreme circumstances, even under current United States law and policy, Delta Force or Seals, or even the U.S. Army Rangers might be employed during an anti-terrorist operation in the United States. Normally their role is limited to responding to terrorist acts that occur outside the United States.¹²

Within the United States, the primary response force for terrorist events is the FBI's Hostage Response Team (HRT), a fifty-man team that has received extensive training in specialized anti-terrorism tactics. Although their capabilities are highly regarded, at least one commentator believes that it strains the FBI's resources to maintain such a team at a high level of readiness.¹³ There is an understandable tension between the desire to maintain such a specialized unit at the highest possible state of readiness and the desire to utilize scarce FBI assets for a broader range of duties. It is absolutely essential to keep the capability, but the utilization of that capability is unpredictable. Fortunately, terrorist activity calling for a

response by the FBI team are rare. Most of the time keeping fifty highly trained agents on standby represents a very expensive insurance policy. During those lull periods, fifty is too many. When an incident occurs, fifty may be far too few.

From the perspective of relative manpower, the armed forces are certainly better able to absorb the dedication of fifty or even one-hundred highly trained and highly specialized personnel to respond to a CONUS based terrorism emergency. However, as a matter of policy, the military's counter-terrorism mission should not be extended beyond an 'on- call' responsibility to augment civilian resources. A limited support mission for the military enhances America's ability in the area of counter-terrorism without placing an excessive burden on the military by committing them to the mission on a full-time basis. It further promotes national defense by ensuring that the military counter-terrorism units that augment civil authorities gain experience in preparation for potential missions for which they bear the primary responsibility.

The United States must guard against placing excessive reliance on the military to perform a domestic counter-terrorism role. If the military focuses too many resources on domestic missions, it exposes the nation to the risk that our war fighting capability will be diluted or diminished. To reduce the risk that military units could become excessively entangled in a law enforcement commitment, overall responsibility, direction, and

control of domestic counter-terrorism operations must remain with the Department of Justice and the FBI.

Alienation of the Military from the American Public

In addition to the resources and war fighting considerations related to a broad use of the armed forces for domestic law enforcement, there are also serious issues related to the political and public impact of such a role. It is generally believed that the reaction among the American people to an expanded military law enforcement role would be highly contentious.¹⁴ A decision to use the military domestically as a para-military organization or as a quasi-police force could be extremely controversial. It might be acceptable only as a last resort measure, despite the merits of any practical argument in favor of such a practice.¹⁵ This concern is premised on the belief that there exists a broadly held, long-standing mistrust of the military among the American public. It further presumes that the American public views counter-terrorism as a law enforcement mission, not a military mission and that it regards law enforcement as a responsibility of civilian authorities, not the military.

Would the public trust its armed forces to perform a domestic counter-terrorism mission? While it is true that the Constitution was written so that military control is placed firmly in the hands of elected civilian authority, this does not necessarily reflect an inherent distrust of the military or

military officers. Military power, whether controlled by military or civilian leadership, undeniably could threaten individual liberties. Having experienced oppression at the hands of the British military who enforced English law against the Americans, the authors of the Constitution were concerned that the military be controlled by elected officials who themselves were accountable to the electorate. Today it seems that when the American public thinks about the military, it tends to think favorably about its armed forces. Recent national polls have consistently shown that the military is the organization most highly respected by Americans. If so, there may not initially be universal resistance to the concept of using the military in a law enforcement role. But public esteem is a fragile commodity. Giving a major domestic law enforcement role to the military, even to counter a threat as great as domestic terrorism, would likely cause a shift in the public perception of its military forces. An organization admired and respected for its role in fighting wars against external threats to national security might well be viewed differently if used against American citizens in the United States. Domestic counter-terrorism is essentially a law enforcement responsibility rather than a military mission. It should remain primarily in the hands of civilian law enforcement officials rather than military leaders.

THE COUNTER-DRUG MISSION

Perhaps it is not coincidence that those who discuss America's efforts to curb illegal drug distribution and use frequently describe the struggle as a "war on drugs." Using that expression, it is easy to envision soldiers, sailors, marines, and airmen as major combatants in such an endeavor. After all, if it is a war, there must be a role for military forces to play in fighting that war. The problem with that analysis is that it is based on faulty semantics. Calling a particular activity a war does not necessarily make it a war, nor does it make it an activity that is appropriate for military forces. At various times politicians and social activists have declared war on such broad targets as inflation, illiteracy, crime, urban decay, bad manners, and an almost endless list of other perceived social ills. Is the employment of the nation's military forces any more appropriate to fight "the war on drugs" than it would be to similarly mobilize American forces in the public schools to fight a "war on illiteracy?"

Although he was not the first American president to address the federal role in combating illegal drugs, President George Bush is credited with escalating the fight by expressly drawing the military into a major counter-drug role. Congress enthusiastically supported President Bush. Congress quickly enacted legislation giving the Department of Defense the mission

to serve as the lead federal agency in fighting the introduction of illegal drugs into the United States. President Bush recognized that the military had substantial personnel and equipment that could be invaluable in counter-drug operations. He announced that he intended to "make available the appropriate resources of America's Armed Forces" as instruments to "intensify our efforts against drug smugglers on the high seas, in international airspace, and at our borders."¹⁶ Legislation was enacted to provide that among other functions, the Department of Defense would serve "as the lead agency in the detection and monitoring of aerial and maritime transit of illegal drugs to the United States."¹⁷ Since that time, the military has played a steadily increasing counter-drug role with varying levels of enthusiasm from senior military leaders.

Military Reaction to the Counter-Drug Mission

When President Bush and the Congress first drafted the Armed Forces into the war on drugs, there was a significant amount of reluctance on the part of the senior leadership to sign up for counter-drug duty. No one burned his draft card as an act of protest, but it was clear that many military leaders felt that civilian counter-drug operations were not appropriate military missions. The Cold War had not yet ended and military roles and missions had not yet become an issue of survival for the services. Within a few years, the services began competing with each other for relevance and budgets. The counter-drug mission,

and almost every other possible mission, became a bone to be fought over. But initially there was considerable resistance to an expanded drug interdiction mission. The attitude was that the military forces were war fighters, not crime fighters. As long as the Cold War continued, the military services had more than enough missions to stay gainfully employed. A large standing force was necessary and sufficient funding was available to sustain a large force. Most senior military leaders believed that there were at least three significant reasons for the military to stay out of a major role in counter-drug operations: first, it would detract from the military's primary war fighting mission; second, it called for skills that the military had not trained for and did not want to learn on the job; and third, there was no firm commitment of additional funding to underwrite a counter-drug mission.¹⁸

Needless to say, neither the President nor the Congress was much impressed with the senior leadership's attempt to "just say no" to the counter-drug mission. Fighting crime, and fighting drug related crime in particular, was just too popular a political stance to expect politicians to back away from it. There was certainly a potential threat from the Soviet Union. However, the political leadership knew that the reality was that American forces were not fighting or dying in combat. As a result, there was an undeniably appealing logic to using an expensive military force to fight drugs while it was training for

its real mission to fight communists. Today, those who support the idea of unleashing America's military might to fight in the war on drugs can persuasively argue that illegal drug use and distribution presents a more tangible threat to national security than the threat of foreign attack. Putting the nation's military on the front lines in the drug war makes practical, emotional, economic, and political sense. The only kind of sense it does not make is military sense for the very reasons described by the military leaders who initially opposed it. Nevertheless, kicking and screaming all the way, the armed forces have become mercenary partisans in the war on drugs.

Fighting a New Enemy

Is the use of the American military forces today an appropriate mission for the military? No one disputes that the business of illegal drug distribution is much different today than it was just a few years ago. At the lowest retail level, drug distribution is still a 'mom and pop' operation in many places. It involves petty criminals and drug users who support their own habits by selling minor quantities of drugs to other small-time users. However, at the national and international levels, illegal drugs are imported and distributed by an extensive and extraordinarily sophisticated network of transnational criminal organizations.¹⁹ Although the enthusiasm with which foreign countries fight narcotics growers and exporters within their own borders varies, illegal drug

activities are not supported or officially tolerated anywhere as a matter of national policy. In fact, Colombia, Peru, Mexico, Thailand, and Turkey, nations that are generally regarded as principal sources of the supply of illegal drugs to the United States, have each officially taken a very strong stand against illegal drug trafficking. They are generally cooperating with the United States in trying to curb their own domestic drug production and the eventual movement of illegal drugs to the United States.

The Military Role in Counter-Drug Operations

Granting the deleterious effects of illegal narcotics and the desirability of minimizing their impact on American society, what should be the role of the military in the war on drugs? There is little that is subtle about war and the use of military force. We could choose to employ direct military action to attack the people and facilities involved in narcotics production and distribution targeted for the American market. However, there are at least three major obstacles to overt military action that immediately come to mind. First, in the absence of a declared or de facto state of war, international law discourages military attacks by one nation on targets, especially civilian targets, located within the sovereign territory of another nation. Second, the object of American ire is not the people or government of Colombia, Mexico, or any other drug source nations. The real 'enemy' is the transnational criminal element operating

independently and in opposition to the legitimate democratic governments within those countries. And third, potential targets such as farmers' fields and makeshift jungle laboratories are difficult to locate and difficult to eradicate as military targets.

The United States is not at war with drug source nations. We are at war with criminals who produce and distribute the illegal drugs that end up in the United States. Some of those criminals are Americans, some are not. The military element of national power is probably not the right instrument to use in response to illegal drug production and distribution that occurs outside our borders. Commerce in narcotics is not an act of war, it is a crime. Domestically, fighting crime is a matter of sovereign responsibility for local, state, and federal governments. Internationally, it is a matter of law enforcement cooperation between and among sovereign nations. There is no reasonable, responsible, or appropriate unilateral military role for American forces to play in fighting drugs beyond our borders. Except to the extent that the United States provides military assistance in support of another nation's military counter-drug operations, there are few favorable prospects for success with a military solution to the drug war conducted overseas.

Domestically, there are two potential direct counter-drug roles for the military, neither of them very attractive. The first is to conduct land, air, and sea interdiction to reduce the

flow of illegal drugs as they are introduced to our territory. The second is to unleash the military to chase down drugs and drug dealers operating within the United States. The first potential option would be ineffective and impracticable. The second, for the reasons previously discussed related to the Posse Comitatus Act, would be legally problematic and completely ill-advised.

In theory, it might be possible to impose an effective contraband barrier across the land, sea, and air points of entry to an entire country. To do so requires either a very tiny country, or a tremendously large number of people, planes, and ships. The United States is neither a very tiny country, nor is it prepared to invest the resources necessary to build an uninterrupted military cordon of our borders. Consequently, it is not possible to achieve a sufficiently high level of effectiveness to justify the great effort and national treasure needed to conduct military interdiction operations. If the demand is high enough, and the potential profit is great enough, a determined criminal enterprise will circumvent any interdiction scheme. It will never be possible to build a breach-proof protective barrier around the United States to keep illegal drugs outside our borders. It would be silly even to try.

Drug War Impact on Military Readiness

Has the use of the military in a counter-drug role over the past few years actually resulted in a significantly diminished

ability to fight and win our nation's wars? Probably not yet. The Gulf War in 1991 was a decisive and surprisingly easy military victory for a United States led coalition. That has been the only large-scale combat operation we have engaged in since taking on a substantial counter-drug mission. During smaller actions there have been a few minor military hiccups in places like Panama and Somalia. However, there have been no military failures that anyone can conclusively attribute to the distraction of fighting drugs instead of training to fight wars. So why worry about the impact that fighting the war on drugs might have on traditional war fighting readiness? The cause for concern is really tied to the limits of military power and constrained assets. Between 1990 and 1997, the United States military forces shrank by almost thirty-percent.²⁰ Doing more with less only works for a limited time. Eventually, despite great effort, you always end up doing less with less. If the military does less successful drug fighting it will mean only that the civilian authorities, those whose responsibility crime fighting really is, will have to work harder to do their job. If the military loses its effectiveness as a war fighting force, people are going to die and we risk a national catastrophe. Why gamble with national security and readiness? The military should withdraw from the drug battlefield and focus on its primary mission.

DISASTER RELIEF AND EMERGENCY ASSISTANCE

What do soldiers, sailors, airmen, and marines do all day when there is no war to fight? Some of them train in preparation for war fighting. Some of them conduct the day-to-day business of the military services. And, some of them engage in steadily expanding, seemingly endless, and all-encompassing activities known as Military Operations Other Than War, or MOOTW. Many of these MOOTW missions such as Non-Combatant Evacuations, Peacekeeping, Peace Enforcement, and overseas Humanitarian Assistance involve some element of danger. They frequently have a very real potential to explode into an actual combat operation. Concerning peacekeeping and peace enforcement, it is sometimes sarcastically observed that if these missions were truly "peace" missions, the Boy Scouts or Girl Scouts could do the job. The reality is that although most overseas MOOTW do not involve combat when they begin, many evolve into something that looks very much like war. There is always a danger that an operation conducted in a hostile environment, or among those who are suspicious of, or antagonistic to, the presence of American military forces, will erupt into open hostilities very quickly. That fact explains why overseas MOOTW are legitimate military missions, not Boy Scout and Girl Scout missions.

When American military forces are used in the United States for domestic natural disasters and other civil emergencies, there

is not ordinarily going to be a high risk that the operation will include combat operations. In most instances, the American public is appreciative of the military effort and supportive of the forces that are engaged in providing assistance to civilian authorities. For most domestic natural disasters and civil emergencies situations, you truly could use the Boy Scout and Girl Scouts rather than the military, provided that the Scouts were big enough, there were enough of them, and they had adult supervision. Although there are probably enough Boy Scouts and Girl Scouts to provide disaster relief almost anywhere in the nation, most of them are physically smaller and weaker than their military counterparts. They are also not equipped and organized as well as most military units and they are not required to follow legally enforceable orders from commanding officers and NCOs. The Scouts' utility for disaster relief missions is further complicated by schedule conflicts with school classes and curfews imposed by their parents. That makes their employment during times of national disaster problematic. If the Scouts cannot be counted on to handle disaster relief and emergency response missions, should these missions fall to the military by default, or is there a better solution?

The Federal Response

The primary statutory authority to utilize military forces in support of civil authorities is found in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.²¹

Ordinarily federal assistance to state and local governmental authorities is triggered by a request to the President to declare a state of emergency following a natural disaster.²² After the President declares a state of emergency, federal troops can be used to respond to the disaster in support of local authorities. In practice, the line of authority for the federal response passes from the President to the Federal Emergency Management Agency (FEMA) as the lead federal agency for disaster and emergency assistance.²³ It is the responsibility of FEMA as the proponent of the Federal Response Plan (FRP) to coordinate the details of how each of the federal agencies will support state and local governments in responding to the situation. Within the Department of Defense (DOD), the line of authority for the FRP continues from FEMA to the Secretary of the Army as the executive agent exercising operational control over DOD resources. Under the Secretary of the Army, the Directorate of Military Support (DOMS) is the DOD's agent to plan and coordinate DOD support.²⁴

A broad range of standing missions has been established by the Secretary of the Army as appropriate for military support to civil authorities. These missions include disaster relief, wildland fire fighting, civil disturbances, immigration emergencies, postal disruptions, animal disease eradication, and military assistance to safety and traffic. Although some of these missions arise only rarely, the DOD has responded to more than 200 domestic disaster relief operations since 1975 and has

flown more than 100,000 hours of medical evacuation missions since 1973.²⁵

The DOD also responds to directed domestic support missions with tremendous manpower demands. These include support to events such as the Atlanta Olympics and the quadrennial presidential inauguration activities. Implementation of the Nunn-Lugar II Domestic Preparedness legislation has resulted in the most recent directed mission.²⁶ This mission is connected to the Defense Against Weapons of Mass Destruction Act of 1996 which requires the Secretary of Defense to assist government agencies at all levels in responding to incidents involving weapons of mass destruction.

Most of the standing missions, and some of the directed missions, for military support to civil authorities are virtually unpredictable. Consequently they are extremely difficult to anticipate, plan, train, or prepare for in advance. For example, although it can be confidently predicted that there will be incidents of natural disaster or civil disturbance sometime in the future, the nature, location, and severity of such incidents is almost entirely a matter of conjecture. The conduct of almost any mission can provide military units with at least marginal training opportunities, enhance certain organizational and individual skills, and provide some real-world experience. Unfortunately, most domestic support missions do not represent significant training opportunities that can actually improve war

fighting skills. The bottom line, therefore, is that while support to civil authorities provides substantial benefits to society, it is also an activity that detracts from military readiness and the military's ability to fight and win our nation's wars.

ANALYSIS

The problem with maintaining an armed force that tries to be all things to all people is that before long, the people first begin to expect all things from its military, and then eventually, to demand all things as a matter of inalienable right. It is easy to release the military support genie from the bottle. It is quite another, and more difficult, thing to put the genie back where he belongs.

The federal system of government under which Americans live was founded with the belief that the national government would be a government of limited powers and limited responsibilities. Distrustful of kings and tyrants, and seeing the potential for tyranny in a national government that was too powerful, the Constitution authors made a deliberate decision to strengthen the national government only to the extent necessary to remedy the obvious deficiencies they experienced under the Articles of Confederation. State and local governments, closer to the people and therefore more responsive to their will and control, were the institutions that the writers of the Constitution expected would

provide the vast majority of domestic government services. Education, regulation of local commerce, fire and police protection, maintenance of roads and waterways, public sanitation, establishment of civil and criminal laws, and a judicial system to support them, and many other public services were expected to be the prerogative of state and local governments. Under the Constitution, the federal government was charged with the responsibility primarily for matters related to national defense and international relations.

More than two hundred years of Constitutional law has practically reversed the relative degree to which the federal, state, and local governments impact upon the lives of most Americans. It is still true that state and local governments play virtually no direct role in matters of national defense and international relations. However, there are few, if any, areas of state and local government into which the federal government does not extend its reach. As a consequence, the American public expects the federal government to be deeply involved in law enforcement and disaster relief activities that this paper has discussed. And, as also previously discussed, it is the United States military that has most often been called upon to pay the bill for the federal government's commitment to provide those services.

If, as expressed in this paper, general law enforcement, counter-terrorism, counter-drug, and disaster relief missions

should no longer be routinely accepted as appropriate roles for the military to fill, can the federal government reduce its responsibility for these services or find other ways to meet the expectations of the American people? There is neither the political will nor a level of fortitude among politicians at the national level to shrink the federal role in American politics. It is therefore unlikely that the level of federal involvement in providing government services will shrink.

The paradigm today is to expand federal power, not reduce it. Having created the expectation of government benefits, it would be an extraordinarily brave politician who could stand up to the pressures generated by any suggestion of erosion of those benefits. Unfortunately, extraordinary valor in a politician is an extraordinarily rare virtue. Witness the reaction of the President and the Congress to any serious suggestion of reform of the Social Security program. Support for expanding the program and increasing benefits translates to votes from a solid block of affected beneficiaries. Any suggestion that there is a need to decrease benefits, or even to slow their growth, usually results in the addition of the term 'former' to describe any Congressman who is so foolhardy as to confuse national interests and constituent interests.

Accepting that the federal government will continue to bear much responsibility for domestic support to its citizens, and given that the military is no longer the appropriate instrument

for federal support, there are alternatives. In fact, the alternatives present several advantages over the current practice of using the military for these missions. First, and most important, the alternatives will contribute to America's national defense by preserving shrinking American military forces for their primary mission to fight and win the nation's wars. Second, they will provide properly trained and equipped law enforcement officials to perform law enforcement functions. Third, they will provide a reservoir of trained and equipped manpower to respond locally to almost any natural or man-made disaster. And finally, they will greatly contribute to both the economic and social well-being of the United States.

Law Enforcement and Counter-Terrorism

Federal law enforcement and domestic counter-terrorism remains primarily a civilian responsibility. The answer to the problem of finding sufficient resources to meet the federal government's responsibility is to have adequately trained and equipped civilian law enforcement agencies. Instead of trying to put a square peg into a round hole by using the military for missions for which they are not properly trained, a federal police force and counter-terrorist unit makes more sense. Such agencies could operate directly under the authority of the FBI or as an independent agency. If there is opposition to creating another federal bureaucracy, an alternative proposal would be to use federal funds to augment existing state and local agencies.

This approach keeps law enforcement responsibilities in the hands of civilian authorities. It also avoids the constraints of the Posse Comitatus Act and keeps the military from being used as an instrument of civil law enforcement. Adequate civilian law enforcement and counter-terrorism resources would be assured and there would be no distraction of the military from its primary mission.

Domestic Counter-Drug Mission

The domestic counter-drug mission, similar to the law enforcement and counter-terrorism mission, is primarily a civilian law enforcement responsibility. The Drug Enforcement Agency, the United States Customs Service, the FBI, and the United States Coast Guard are the federal agencies that should be utilized to meet the federal responsibilities for domestic counter-drug activities. The military support to these civilian agencies should be modest and limited. Training and equipping civilian agencies or providing incidental intelligence products to civilian law enforcement agencies are the kinds of assistance that are not likely to severely impact on military resources or capabilities. Beyond these limited contributions, the military should do battle in the war on drugs.

Domestic Disaster Relief and Civil Emergencies

Finally, for federal domestic disaster relief and other emergency response missions, greater reliance on state and local civilian agencies is essential. Political gain and economic

considerations aside, disasters and emergencies that are actually beyond the combined robust capabilities of local and state governmental and non-governmental resources should be exceedingly rare. This is particularly true in light of the considerable resources and capabilities of the National Guard in its state role. The reality is that the federal role in most instances is primarily a function of financial resources and political considerations. Naturally, state and local governments like to see federal money rather than their money being spent to respond to disaster and emergency events. And just as naturally, federal politicians like to be seen as a source of support and services to their constituents during times of crisis. The military is just a conveniently available tool to meet state, local, and political interests. Being convenient does not mean that it is the right thing to do.

To replace military forces in performing these highly visible Boy Scout and Rent-A-Cop missions, a civilian organization might have to be established. One possible solution would be to create a national service organization similar to the Civil Conservation Corps (CCC) established by President Franklin Roosevelt during the New Deal era. While President Roosevelt's primary purpose for the CCC was to create employment opportunities for young men during the Great Depression, a similar organization today could be shaped to include capabilities to respond for the federal government in times of

natural disaster or public emergency. It would represent a form of national service for young Americans who could earn benefits for college in exchange for a period of public service. Such an organization could provide the visible, trained, manpower intensive capability that is presently found in the employment of military forces during disaster and emergency response situations. The sandbags along the rivers would still be filled, the food and blankets distributed, the tents erected, and the needs of the people and politicians would still be met without compromising military readiness or straining the operational tempo of military forces with non-military missions.

CONCLUSION

With the end of the Cold War, the American people expected to get their Peace Dividend. The need to maintain a large standing military force disappeared and there was no interest in paying for a military that no longer seemed essential as a bulwark to a foreign enemy. Unfortunately, events have proven that there are still a plethora of foreign threats and military missions around the world. Iraq, Bosnia, Haiti, Somalia, and Rwanda are just a few of the long list of military deployments that we have experienced in recent years. There is no reason to expect that the future holds fewer rather than more deployments for American forces.

The prospects for increasing the size of the military to meet these future threats and missions is dim. It is critical that we conserve America's military might so that it remains trained, equipped, and ready to respond to military threats to our national security. It should be national policy that unlike in the recent past, America's military forces will not routinely be used to perform non-military domestic support missions.

Word Count
7,590

ENDNOTES

¹ John M. Shalikashvili, National Military Strategy of the United States of America, (Washington, D.C.; Department of Defense, 1997), 5.

² Henry Kissinger, Diplomacy (New York: Simon and Schuster, 1994), 23.

³ Carl Von Clausewitz, On War, edited and translated Michael Howard and Peter Paret (Princeton, NJ: Princeton University Press, 1976), 187.

⁴ Crimes and Criminal Procedures, U.S. Code, Title 18, sec. 1385 (1994).

⁵ William R. Farrell, The U.S. Government Response to Terrorism, (Boulder, CO: Westview Press, 1982), 52-53.

⁶ Armed Forces, U.S. Code, Title 10, secs. 371-380 (1993)

⁷ Office of the Secretary of Defense, Annual Report to the President and the Congress (Washington, D.C.: U.S. Government Printing Office, April 1997), 9.

⁸ Ibid.

⁹ William L. Waugh, Jr, Terrorism and Emergency Management (New York: Marcel Dekker, Inc., 1990), 104.

¹⁰ Ibid., 106.

¹¹ Ibid., 109.

¹² Leroy Thompson, The Rescuers, (Boulder, CO: Paladin Press, 1986), 109.

¹³ Ibid., 110.

¹⁴ Neil C. Livingstone and Terrell E. Arnold, Fighting Back (Lexington, MA: Lexington Books, 1986), 74.

¹⁵ Waugh, 109.

¹⁶ Mathea Falco, "U.S. Drug Policy: Addicted to Failure," Foreign Policy, (Spring 1996): 122.

¹⁷ Ibid.

¹⁸ Amos Jordan, William Taylor, and Lawrence Korb, American National Security Policy and Practice, (Baltimore: Johns Hopkins University Press, 1989), 167.

¹⁹ Phil Williams, "Sovereignty at Bay," The Washington Quarterly (Winter 1995): 8-9.

²⁰ Office of the Secretary of Defense, Annual Report to the President and the Congress (Washington, D.C.: U.S. Government Printing Office, April 1997), 16.

²¹ Robert T. Stafford Disaster Relief and Emergency Assistance Act, U.S. Code, Title 42, secs. 5121 et seq (1984).

²² Thomas R. Lujan, "Legal Aspects of Domestic Employment of the Army," Parameters 3 (Autumn 1997): 83.

²³ David L. Grange and Rodney L. Johnson, "Forgotten Mission: Military Support to the Nation," Joint Force Quarterly 15 (Spring 1997): 109.

²⁴ Ibid.

²⁵ Ibid., 110.

²⁶ Ibid., 111.

BIBLIOGRAPHY

- Armed Forces. U.S. Code. Title 10, secs. 371-380 (1993)
- Clausewitz, Carl Von. On War. Edited and translated by Michael Howard and Peter Paret. Princeton, NJ: Princeton University Press, 1976.
- Crimes and Procedures. U.S. Code. Title 18, sec. 1385 (1994)
- Falco, Mathea. "U.S. Drug Policy: Addicted to Failure." Foreign Policy (Spring 1996): 120-133.
- Farrell, William R. The U.S. Government Response to Terrorism. Boulder, CO.: Westview Press, 1982.
- Grange, David L., and Rodney L. Johnson. "Forgotten Mission: Military Support to the Nation." Joint Force Quarterly 15 (Spring 1997): 108-115.
- Jordan, Amos, William Taylor, and Lawrence Kolb. American National Security Policy and Practice. Baltimore: Johns Hopkins University Press, 1989.
- Kissinger, Henry. Diplomacy. New York: Simon and Schuster, 1994.
- Livingstone, Neil C. and Terrell E. Arnold. Fighting Back. Lexington, MA: Lexington Books, 1986.
- Lujan, Thomas R. "Legal Aspects of Domestic Employment of the Army." Parameters 3 (Autumn 1997): 82-97.
- Office of the Secretary of Defense, Annual Report to the President and the Congress. Washington, D.C.: U.S. Government Printing Office, 1997.
- Robert T. Stafford Disaster Relief and Emergency Assistance Act. U.S. Code. Title 42, secs 5121 et seq (1984).
- Shalikashvili, John M. National Military Strategy of the United States of America. Washington, D.C.: Department of Defense, 1997.
- Thompson, Leroy. The Rescuers. Boulder, CO: Paladin Press, 1986.
- Waugh, William L. Jr. Terrorism and Emergency Management. New York: Marcel Dekker, Inc., 1990.

Williams, Phil. "Sovereignty at Bay." The Washington Quarterly
(Winter 1995): 8-9.