STRATEGY RESEARCH PROJECT

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COUNTERDRUG OPERATIONS: A NECESSARY DOD MISSION?

BY

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ABSTRACT

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Over the past thirty or more years, the United States has witnessed a dramatic increase in domestic problems and crimes that are directly associated with illegal drug abuse and trafficking. The level of illegal drug operations has surpassed the ability of local, state, and many federal police agencies to deal with them. The Executive and Legislative bodies of our government, as well as the people of our great nation demand immediate action to eradicate illegal drug use and trafficking. To the initial dismay of many civilian and military leaders, recent years have seen an unprecedented use of DoD resources to reinforce the fight between civil law enforcement agencies and narco-traffickers. Tremendous headway has been gained due to DoD participation in the drug war. If we are to make progress in the fight against illegal drug usage, DoD must train for and continue to operate in this Military Operation Other Than War (MOOTW).

INTRODUCTION

Over the past three decades, the United States has witnessed a dramatic increase in domestic problems and crimes that are a direct result of illegal drug use and trafficking. The problems threaten our national security and tear at the very structure of America's economic and social well being. The drug problem is also responsible for creating significant erosion in the moral and ethical values held dear by a majority of the people of our great nation. It is for these reasons that our national political leaders have joined forces in what promises to be one of the longest battles ever waged by the United States of America: the war against drugs.

In September 1989, President George Bush announced a bold step toward curing the sickness brought about by the use of illegal drugs. He instituted a National Drug Control Strategy aimed at utilizing the vast resources available to the federal government to halt the entry of illegal drugs into this country. Among other things, the new strategy enlisted the technology, power, personnel and long reach of the Department of Defense (DoD). DoD was appointed the "federal government's single lead agency for detection and monitoring of aerial and maritime transit of illegal drugs into the United States."[1] The role of the Defense Department is predicated on one key element: "support to the law enforcement agencies that have counterdrug responsibilities ."[2] That support has grown significantly in the last six years and now is fully incorporated in DoD's two broad

functions: surveillance (detection and monitoring) and apprehension. Apprehension as used here simply means that DoD will use its personnel and equipment to assist Law Enforcement Agencies (LEAs) in the apprehension and arrest of criminals. As will be explained later, DoD military personnel are restricted under certain rules and laws governing the apprehension of civilians. Additionally, DoD has appointed its own drug czar (the DoD Counterdrug Coordinator), who had a total FY 1995 budget of $852.0 million. The DoD 1996 budget request is $812.0 million, of which, $399.3 million is to be used for interdiction, $278.6 million for state and local assistance, $90.4 million for prevention measures, $6.8 million for treatment, and $37.0 million will be designated for research and development.[3]

The war against illegal drugs and narcotics that President Bush started in 1989 continues with the current Presidential Administration. In transmitting his National Drug Control Strategy (February 1995) to the Congress of the United States, President Clinton said the following:

> I am pleased to transmit today to the Congress and the American people the *1995 National Drug Control Strategy*, which confirms our resolve, identifies my priorities for addressing this Nation's continuing drug problem and further defines my Administration's plan for reducing illegal drug use and trafficking.
>
> This *Strategy* sends strong messages of responsibility on all fronts: to the international community that all nations must work together to reduce the supply and demand for illegal drugs; to traffickers and criminals that they will pay a stiff penalty for destroying our children's futures; and to our Nation's youth that drugs are not only illegal---but

> that using them is dumb, dangerous, and likely to get you hurt, and maybe even killed. Legalization is a formula for disaster. And it is precisely because of the damage that drug use causes that I am, and will remain, unequivocally opposed to the legalization of any of the drugs that are currently illegal.
>
> The government cannot solve this Nation's drug problem, or any other social ill, alone. But neither can we shirk our responsibility. That is why this *1995 Strategy* extends the hand of partnership to all Americans---concerned citizens, community leaders, teachers, law enforcement officers, parents, and leaders of the faith community----and asks them to begin anew the process of engaging all Americans in addressing this important issue.[4]

The above remarks along with increased funding in Counterdrug operations sends a very strong message that the United States will use every available resource, to include military personnel and equipment, and economic/trade restrictions in the war against illegal drug trafficking and use.

With all the political pressures and resources now allocated to the war against drugs, two prevailing questions still remain; (1) should the United States continue to use DoD and its military resources to support America's counterdrug efforts? and (2) has the use of military resources significantly contributed to a reduction in the illegal flow of drugs into this nation? In examining the above questions, this paper will show that under current peacetime conditions, military personnel and equipment are being used properly, and their successes (although hard to measure) have indeed played a key role in fighting one of this country's major problems while supporting a national security interest.

ARGUMENTS AGAINST DoD INVOLVEMENT

Most Americans believe that the fight against illegal drugs in the United States must be fought and won on every possible front. Within that same population, many, including senior civilian and military leaders, draw the line when it comes to using the Department of Defense (particularly military forces) and its resources in battling illegal drug operations. A few of the arguments used by opponents of DoD involvement in counterdrug operations include possible violation of the *Posse Comitatus Act*, effects on military short and long term readiness, funding problems, DoD budgetary concerns, what military strategy to use, and ill-equipped and trained forces. To clarify, I will address each of these arguments in some detail.

THE POSSE COMITATUS ACT

The Posse Comitatus Act was originally passed in 1878 in the aftermath of the Civil War reconstruction. Its intent was to restrict federal soldiers from enforcing civil law and placed limits on the power of the Continental United States (CONUS) Army. DoD regulations support the act by preventing US armed forces personnel and Army National Guardsmen (when federalized) from executing civilian law. The law does not apply when Army National Guardsmen are activated by the States they serve to enforce civil laws. Ordinarily, the Posse Comitatus Act would prevent all military support of counterdrug operations, however, Congress has given the military authority to assist civilian Law Enforcement Agencies under Title 10, US Code, Sections 371-378.

These sections allow DoD to provide training, assistance, equipment and facilities when it does not affect military readiness. Therefore, under the provisions of Title 10, DoD is not only within legal boundaries, it is required by federal statue to support designated counterdrug requirements.[5]

Some would even argue that since the Posse Comitatus Act was originally passed to govern military actions in the Continental United States of America, our military forces are free to act outside the United States in the apprehension of drug traffickers. After all, military forces were certainly used in the apprehension of former Panamanian dictator General Manuel Noriega and provided unparalleled assistance in the planned capture of Pablo Escobar, a Colombian drug lord. Based on these recent military actions, one could argue that the United States Department of Justice has already favorably considered using military forces when needed in the fight against drugs, especially outside the Continental United States.

EFFECTS ON MILITARY READINESS

DoD has taken the appropriate steps necessary to insure that combat readiness does not suffer due to counterdrug operations. Designated units, personnel and equipment have been allocated to support counterdrug operations. At no time are combat, combat support or combat service support units removed from critical world locations or training to participate in drug interdiction or local assistance actions. For the most part, the training, assistance, equipment, and facilities offered up for counterdrug

operations have little or no impact on the operational readiness of the unit providing the support. As a matter of fact, some very senior military leaders believe that much of the assistance provided by supporting units adds to unit's overall short and long term readiness, effectiveness and efficiency.

FUNDING PROBLEMS

The counterdrug mission was originally mandated to the Department of Defense (DoD) in 1986 and has seen significant expansion in the past ten years. The funding appropriated by Congress in 1986 was approximately $189 million. For Fiscal Year (FY) 1995, the Office of the DoD Counterdrug Coordinator received a budget of approximately $852 million. This represents a growth of over 400% in less than nine years. Very few DoD programs have seen such a significant increase in their total obligation authority (TOA) in such a short period of time (See figure 1 on next page).

The funding problems witnessed in the DoD Counterdrug Program do not arise from the dramatic increases in TOA however. They appear as a result of the Congressional budget authorization/appropriation and the DoD budget allocation processes. Although DoD has designed an effective program for insuring that the counterdrug mission is accomplished, problems have traditionally existed in the area of providing timely financial resources to the Military Departments responsible for program execution. The problem can be resolved by Congress

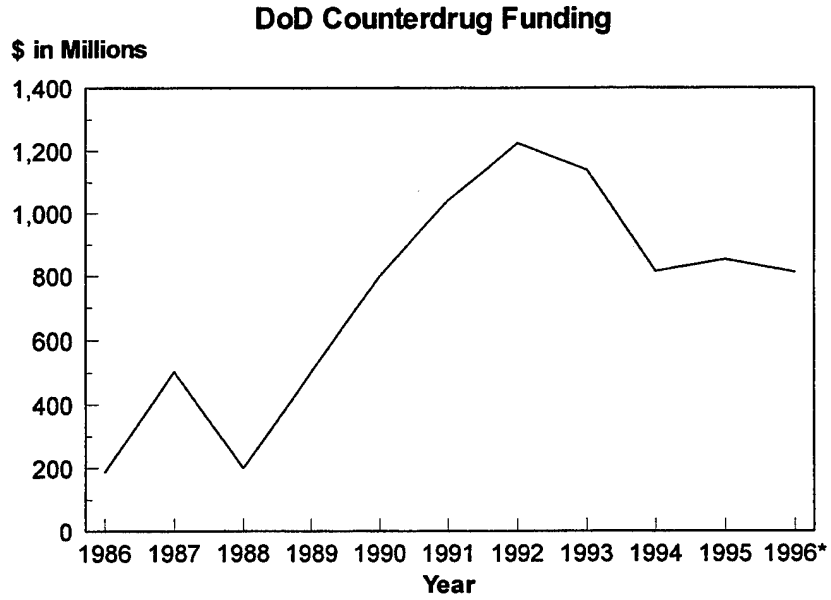

Figure 1
*Presidents Budget Request

passing a timely DoD appropriation, the President signing it into law, and DoD providing the military departments a percentage (to be determined by DoD with Service input) of the counterdrug appropriation immediately after the signing of the DoD Appropriation Bill. This action will provide the Military Departments significantly more latitude in accomplishing the programmed objectives.

Since this issue creates significant concern within HQDA and at the Major Command level, this area warrants more discussion than others. The DoD Counterdrug Program was designed to accomplish Presidential directives utilizing military resources to the maximum legal extent possible. The program is centrally managed and funded by the Office of the DoD Counterdrug Coordinator. The office is also responsible for all phases of

the Planning, Programming, Budgeting, and Execution System (PPBES) as it relates to counterdrug funding. Counterdrug missions are normally researched, developed, and organized within DoD. The Military Departments are then assigned responsibilities based on requirements and service unique capabilities. Due to the high visibility given the Counterdrug Program, fund accountability and project management is micro-managed to a level rarely witnessed with any other appropriation. Hence, the duties and responsibilities of the Military Departments and their respective comptrollers and/or financial managers have increased significantly.

The process begins as do most defense programs. The primary difference here is that all projects are programmed in the DoD Program Objective Memorandum (POM) as opposed to Departmental POMs. That is to say that MACOMs (Army Major Commands, such as FORSCOM) plan, program and budget for Counterdrug projects and submit their funding requirements and justifications through their respective Services to the DoD Comptroller. The projects are reviewed by the Program and Budget Division of the DoD Comptroller and, if approved, are sent to the Hill in the President's Budget. If the project is authorized and appropriated by Congress and signed into law by the President, it is often sent back to the DoD Comptroller by project number and dollar amount. If a project number is not assigned in the appropriation language, it is assigned at DoD prior to release to the Military Department of choice.

The funding or resourcing problems associated with the Counterdrug Program often occur during periods of Continuing Resolution Authority (CRA) or immediately after the DoD Appropriation Bill is signed. Each year (with the exception of maybe FY 94) MACOMs are instructed to continue resourcing Counterdrug missions at specified levels not to exceed prior year funding. While operating under a CRA, MACOMs are often left with insufficient funds or guidance necessary to effectively execute a responsive counterdrug program. If MACOMs resource a project, they assume the risk of eating the cost, primarily because Congress may cut the project in the upcoming appropriation. This causes MACOMs that want to be team players in the drug war to become more conservative in funding issues. Unfortunately, many counterdrug projects operate under contracts or political overtones that require MACOMs to assume the unwanted risk. DoD is perhaps at some disadvantage in resolving this problem, however, the MACOMs cannot be expected to blindly continue this practice in light of the limited resources available today.

The second and perhaps more critical area of concern revolves around the time lag between the signing of the DoD Appropriation Bill and receipt by the military departments of their counterdrug allocations. The time lag allows DoD to make necessary administrative and funding adjustments generated by Congressionally mandated reductions. In FY 92, the military departments did not receive the majority of their TOA until the

mid-year point. This created significant execution problems especially with the one year Operations and Maintenance appropriation. Military Departments were expected to resource counterdrug missions out of existing reduced funding levels. In the Army, many MACOMs requested and received up-front funding to resource counterdrug projects that were considered critical. This required the Army to utilize other appropriated funding normally held at the departmental level for contingency purposes. This action could have decreased mission readiness and did cause unnecessary hardships on other competing programs. The Army loaned its MACOMs approximately $42 million in the interim period between the approved appropriation and the actual receipt of its counterdrug allocation. This meant that only $42 million was obligated for counterdrug missions during this time. The impact here is perhaps more serious when one realizes that of the $338 million programmed for Army counterdrug projects in FY 92, the April obligation rate should have been approximately $170 million plus. Using straight line analysis of these figures, it might also be concluded that the Army counterdrug effort operated at 24 percent efficiency prior to Departmental receipt of authorized funding levels.

The problems created by DoD's method of resourcing counterdrug projects are significant and should be remedied. The method of holding reprogramming actions at the DoD level until all adjustments are made is unacceptable. The DoD Comptroller must institute new procedures capable of providing more timely

resourcing.

The above CRA problem could be resolved if DoD insured that future CRAs contain a memo (footnote) providing ample funding for counterdrug operations as was done during last year's budget debates. The problem of forcing the Services to use their contingency funds would be resolved if DoD provided the military departments a percentage of the counterdrug appropriation at the time the departments receive their normal yearly OMA, OPA, MPA and RDT&E appropriations. The percentage could be based on an amount deemed critical by the Services minus Congressional cuts, DoD withholds, etc. If time restrictions did not allow for an indepth review of the appropriation, a minimum of 50 to 75 percent of the total program could safely be reprogrammed to facilitate mission execution. DoD could then retain 25 to 50 percent of the appropriation to make necessary adjustments. This would provide the military departments the needed flexibility to continue supporting counterdrug missions without degradation to other programs of equal importance. Additionally, contract negotiations could be continued without delays or potential contract lapses.

Counterdrug operations are not temporary and DoD participation is vital. An effective program is in place and continues to strengthen efforts designed to stop the flow of illegal drugs into the United States. We must now design programs that improve internal controls, policies, procedures and the use of limited resources. The very fiber of our success in

any future endeavor will be dependent on the ability of financial managers at every level to maximize the use of available dollars. A procedure that insures timely and effective resourcing of key players is paramount. The military departments can effect change only if resourced totally and in a timely manner.

DoD BUDGETARY CONCERNS

Those who argue that DoD does not have the funds in its Departmental (Army, Air Force, Navy) and operational defense budgets to support counterdrug operations are partially correct. However, it should be understood that DoD counterdrug dollars do not represent dollars taken directly from defense readiness spending and is therefore a non-issue. Congress appropriates separate funding for counterdrug operations which is transferred though the Office of National Drug Control Policy (ONDCP) to the Office, DoD Drug Coordinator. "The Counterdrug Program (CD) is funded through a Central Transfer Account with a single budget line that accounts for all associated counterdrug resources, with the exception of Active component military personnel cost, military OPTEMPO, and certain National Security Agency and Defense Intelligent Agency program funds."[6] The overall DoD nonreimbursable cost allocated to the Service Departments for counterdrug operations is minimal when compared to the total Departmental Budget and national benefits gained.

APPROPRIATE MILITARY STRATEGY

The correct military strategy is relatively simple. Active Forces are required to stay within the bounds of Tile 10,

Sections 371-378 and follow the guidance outlined in the National Drug Control Strategy. Accordingly, this strategy ultimately seeks to use military assets to dismantle, disrupt, and eventually destroy the flow of illegal drugs by attacking both the supply and demand sides of the drug problem. Generally speaking, this is not a strategy of complete annihilation (conventional war), but rather, one of prolonged conflict (limited war) highlighted by significant successes from time to time with the possibility of never achieving total victory.

ILL-EQUIPPED AND TRAINED FOR COUNTERDRUG MISSIONS

The assertion that our soldiers are ill-equipped for the task of counterdrug operations is unfounded. Our equipment and associated technology is the precise reason we contribute so much to the counterdrug effort. High speed aircraft, radars, night vision technology, etc. are all examples of valuable high tech equipment used in the drug war. Of course our soldiers aren't trained in the laws of drug enforcement, but due to current legal restrictions already discussed, they don't need to be. They contribute to the fight by training and assisting civilian law enforcement officials with the expertise and equipment needed to get the job done.

NEGATIVE GAO REPORTS ON MILITARY EFFECTIVENESS

Finally, opponents of DoD involvement in counterdrug operations frequently use another, perhaps even more convincing argument. This argument suggests that even government reports released by the United States General Accounting Office indicate

that "DoD's detection and monitoring efforts have not had a significant impact on the national goal of reducing drug supplies."[7] One such report released in September 1991 sums up its review of counterdrug operations in DoD as follows:

> DOD has given detection and monitoring a high priority, adopting a cooperative, pragmatic, approach to implementing the mission. Although this approach has allowed DOD to expand national surveillance of drug traffic through its significant commitment of aircraft, radars, and other resources, it has not produced fully integrated detection and monitoring operations.
>
> Moreover, DOD's detection and monitoring efforts have not had a significant impact on the national goal of reducing drug supplies. The estimated cocaine flow into the United States did not decrease in 1989 and 1990. The failure to measurably reduce cocaine supplies is the combined result of (1) the enormous profits that make interdiction losses inconsequential to drug traffickers and (2) the inability of current technology to efficiently find cocaine hidden in containers, large vessels, vehicles, and other conveyances.[8]

While the General Accounting Office (GAO) report may be accurate, it is much too mechanical and narrowly focused. The report appears to have measured government dollars invested in DoD counterdrug operations against a totally unmeasurable estimated amount of drugs believed to have entered into the United States. The argument can be countered by simply asking the GAO to quantify what is meant by "significant impact" and on what basis can its conclusion be justified. Surely the GAO has no substantive way to measure the total impact of DoD's interdiction efforts. It is doubtful that anyone other than the drug traffickers themselves have the ability to measure the total

effect that DoD operations are having on the drug war.

I believe DoD counterdrug operations have had significant impacts in the war against illegal drugs. Drug traffickers have had to spend large sums of money to purchase faster air and sea craft; cartels have been dismantled; source nations have joined the battle against drug trafficking; and larger illegal drug shipments are being found everyday because of DoD involvement certainly prove something. Much remains to be done but nothing has ever been accomplished by removing the necessary resources needed to complete a job. The military is a vital instrument in the drug war and must be used to its maximum capacity.

SHOULD DoD/MILITARY RESOURCES BE USED IN THE DRUG WAR

Based on the data as presented above and the fact that military involvement has been mandated by the Executive and Legislative levels of our government with strong support of the American people, we can now answer the first question presented at the beginning of this paper. Yes, the United States should use DoD resources in the fight against illegal drug use and trafficking. Counterdrug support is a form of Military Operations Other Than War (MOOTW) that can be afforded and is necessary in this post-Cold War period. President Clinton summed it up when he said the following:

> The drug issue is about the responsibility of government to its citizens and the kind of society we aspire to be. There must be a national imperative to reduce drug use. Surely this is a national goal that can unite us all, across the boundaries of party, race, region, and income.[9]

General Colin Powell, the former Chairman of the Joint

Chiefs of Staff spoke on the subject of military involvement in counterdrug operations when he said in February of 1991 that:

> ....a high priority national security mission for our armed forces....deal with this threat as a clear and present danger. We have accepted that mission....This mission will continue to require deployed, properly trained, well-equipped forces for the foreseeable future.[10]

General John M. Shalikashvili, the present Chairman of the Joint Chiefs of Staff supports the President when he said in the 1995 National Military Strategy that:

> The Armed Forces, working in close cooperation with law enforcement agencies, will use all means authorized by the President and the Congress to halt the flow of illegal drugs into this country.[11]

The views expressed by both Generals Powell and Shalikashvili are supported throughout DoD via the Defense Planning Guidance (DPG) and The Army plan (TAP). Although no detailed guidance is discussed in the DPG, it provides our leaders with wide latitude in supporting counterdrug operations. This latitude is necessary if an effective war against illegal drug trafficking is to be mounted. The TAP on the other hand provides very definite guidance as to the who and how counterdrug missions will be accomplished. Too much is at risk to say that DoD and its military forces should not participate in the drug war. The mission will soon become a regular part of military training and it everyday mission.

DoD IMPACT ON THE FLOW OF ILLEGAL DRUGS INTO THE US

Although it is virtually impossible to measure DoD's direct impact on the flow of illegal drugs into the United States,

significant gains have been made as a direct result of the technology, manpower and equipment bought to bear by defense resources. The following data was taken directly from the Budget Summary, National Drug Control Strategy and represents accomplishments attributed to DoD resources during FY 1994:

Supporting Source Nation Efforts

- In FY 1994, DoD provided more than $19.0 million in training, equipment, and services to the Bureau of International Narcotics Matters (INM) Airwing and host nation police forces. Similarly, the decision to construct a third Relocation Over-the-Horizon Radar (ROTHR) program to Puerto Rico demonstrates a major DoD investment in source nation counterdrug efforts.

- DoD began working with DEA to find ways to support the country teams and host nations in Southeast Asia, including the creation of a Northern Task Force Fusion Center in Thailand.

Detection and Monitoring Efforts

-Despite the congressionally mandated cut in FY 1994, DoD has continued to maintain a robust detection and monitoring capability in the transit zone by phasing out less effective fixed systems in favor of more modern, cost-effective systems.

-The TAGOS radar picket ship had been used in place of more costly naval ships. ROTHR augments other assets and helps absorb the loss of more expensive fixed-radar sites.

Dismantling Drug Cartels

- DoD provided training, technical assistance, and intelligence analysis to DEA and the FBI in support of the Targeted Kingpin Strategy. Additionally, DoD provided funding necessary to staff and operate the National Drug Intelligence Center.

- DoD established and operated a 100-man linguist support activity to enhance DEA Kingpin Operations.

Supporting Domestic Law Enforcement

- Provided $15.0 million in operational support to the Southwest Border in response to DEA requests. This included engineering support (e.g., fencing, lighting, and road improvements), linguist and intelligence analysts, reconnaissance, and law enforcement training.

-Transferred more than $250.0 million of excess equipment to DLEAs, including 1,306 vehicles and 178 helicopters.

- Provided $3.75 million worth of fixed wing air transportation support to DLEAs.

- National Guard assisted DLEAs in the seizure of 75 metric tons of cocaine and the location and eradication of 328,000 pounds of marijuana domestically.

Supporting Demand Reduction Efforts

- Pilot Community Outreach Programs, using active and reserve military personnel, are proving to be successful in reducing the demand for drugs among America's at-risk youth.

- DoD continues the consolidation/regionalization/ modernization of military drug testing laboratories for increased efficiencies and cost savings.[12]

DoD has had a significant impact on countering illegal drug use and trafficking, as stated by Mr. Brian E. Sheridan, Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support, "There can be no doubt of the harm illicit drugs inflict. While DoD does not have a 'silver bullet' that could end the drug problem quickly, it does have unique talents and assets to bring to the interagency counterdrug effort."[13]

The President recently took another step toward a more serious counterdrug program by appointing General Barry R. McCaffrey as the new Drug Czar. General McCaffrey brings much to

the counterdrug arena with his complete and up-to-the-minute knowledge of U.S. military and civilian capabilities in counterdrug operations. As the Commander in Chief, United States Southern Command (his most recent military assignment), General McCaffrey served as the Nations military point man for support to law enforcement agencies and DoD's surveillance/apprehension functions. In his 8 March 1995 statement before the House National Security Committee, General McCaffrey indicated how important DoD's role is in the drug war. He said the following:

> We face a dilemma in our counterdrug efforts. Our efforts over the past five or more years have not yet yielded the effect we desired. Coca growing has not diminished. The amount of cocaine produced and subsequently smuggled out to the U.S. and world markets has also remained steady. Both the street price and the availability of cocaine in the United States have not been demonstrably affected by the U.S. extensive inter-agency involvement (to include DoD's) in the counterdrug effort in Latin America. Nevertheless, a substantial amount of cocaine is being interdicted, perhaps up to a third of the total produced. We remain committed to addressing this national security threat and request your continued support of our counterdrug efforts.[14]

Even if DoD has stopped only one third of the cocaine produced from reaching the streets of the U.S., one could easily believe that perhaps a third less violence, crime, and death may have been stopped.

General McCaffrey goes further to highlight that this is a long term DoD commitment when he said:

> SOUTHCOM is attempting to change the way we fight this CD war-90 days at a time with temporary duty military positions. In Vietnam, we learned that you couldn't be effective fighting the war a year at a time. And we can't tackle this scourge

which is killing 10,000 Americans a year with troop deployments of 3 months duration.[15]

CONCLUSION

Illegal drugs constitute a very serious threat to our national security, as well as our economic and social well being. We must use every available resource including the Department of Defense and it's vital military assets in our fight to reduce the large amounts of dangerous narcotics in our streets.

Arguments such as violations against the Posse Comitatus Act, negative effects on short and long term readiness, funding problems, DoD budgetary concerns, which military strategy to use and ill-equipped and trained forces for counterdrug missions cannot be allowed to stand in the way. We must recognize the tremendous potential DoD and its military resources have and use them to the maximum extent possible in support of counterdrug operations.

The Department of Defense has been given the mandate to be a leader in the counterdrug offensive and is doing an outstanding job. We may not be able to see a measurable difference in our cities and neighborhoods, but let no one doubt that the problem could be significantly worse if we fail to utilize every resource available. Clear progress has been and continues to be made. The war against drugs will certainly last well into the next generation, however, "if the commitment of the nation remains strong, victory in this fight will surely be as inevitable as the victory we celebrated at the end of the Cold War."[16]

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