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MISUSE OF CRITICAL MILITARY RESOURCES:
DECLINING RESOURCES - INCREASING COMMITMENTS

by

Dale A. Luther
Lt Col, USAF

A RESEARCH REPORT SUBMITTED TO THE FACULTY

IN

FULFILLMENT OF THE CURRICULUM

REQUIREMENT

Advisor: Dr Mike Boll

MAXWELL AIR FORCE BASE, ALABAMA

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ABSTRACT

**TITLE: Misuse of Critical Military Resources:
Decreasing Resources - Increasing Commitments**

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During a period of declining defense budgets, political and military leaders are attempting to involve the military in the non-traditional military missions of support to civilian law enforcement and counterdrugs. This push is driven by a desire to stem defense reductions by providing a service to current domestic problems. In reality, the effect of these involvements would not be the preservation of resources for combat capability but rather the loss of readiness, resources and morale.

BIOGRAPHICAL SKETCH

Lieutenant Colonel Dale A. Luther (B.S. Arizona State University, M.A. Troy State University) has 22 years experience in civilian and military law enforcement and criminal investigations. For the past 17 years he has served in the Air Force Office of Special Investigations in command, and specialized counterintelligence operations positions. He is a graduate of the Armed Forces Staff College and a 1994 graduate of the Air War College.

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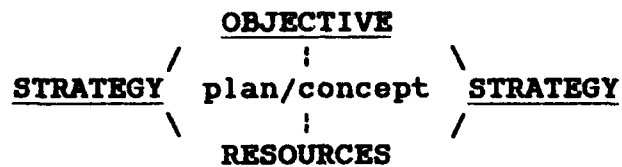
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CHAPTER I
INTRODUCTION

The Snyder Resource Model provides an analytical means of analyzing the interrelationship between resources, strategy and objectives.



The model asserts that "Strategy is a broad concept, embracing an objective, resources, and a plan for using those resources to achieve the objective". (24:61)

Today our nation finds itself in a situation where our leadership has proposed altering the relationship of the nation's military resources and strategy. Proposals call for increasing the involvement of the military in new, non-traditional roles while maintaining military commitments and significantly reducing resources. This proposed misuse of critical military resources could prove both wasteful and disastrous to our nation.

One of the most difficult decisions that political and military officials have faced in the post-Vietnam period has been when to utilize military forces. The demise of the Soviet Union and the resulting perceived lack of threat to the United States has resulted in calls by the American public and its political

representatives for a change in the allocation of resources from military to domestic programs. The role of the United States military in a post-Cold War era where the leadership has sought a relationship between threat and military funding have enticed not only politicians but military leaders to search for new non-traditional missions.

The calls for the "peace dividend" have made the issue of the role of the military even more complex. Resource levels are now viewed not in terms being threat based rather they are described in terms of capabilities. This refocusing of resources has resulted in greatly reduced defense budgets, calls for reexamination of the size and purpose of U.S. military forces and moves to align capabilities to current domestic national interests. The leadership must now choose not only when to commit military forces, but what roles and missions they should execute in today's multipolar world.

The preface of the January 1993 National Security Strategy of the United States stated that "We are moving into a new era. It is an era that holds great opportunities - but also great dangers. We can choose to lead the world into this most historic of transformations, or we can choose, as we have earlier in this century, to turn inward, abandon our leadership role, and accept whatever results may follow." (1:1)

"One of the fondest expressions around here is that we can't be the world's policeman. But guess who gets called when suddenly someone needs a cop"

General Colin Powell

When General Powell made this statement he was referring to the United States being the world's policeman. His statement was directed to the use of military forces in an external sense, one beyond the continental United States. Little did he suspect that today the U.S. military would be called on to not only be the world's policeman; it would also be proposed that they provide support to domestic law enforcement.

In October 1993 the mayor of Washington DC, Sharon Pratt Kelly, requested the use of the national guard to "fight crime" in the District of Columbia. Her request to President Clinton demonstrates the need to clarify the role of the military in this area. This inward focus of military resources dramatically reflected the warning that President Bush referred to in the National Strategy statement. The desperate and predictable misuse of military capability and resources can be no better exemplified than by the District of Columbia's stated objectives "Those who can contribute manpower, equipment ...however they can help us, that's what we're going to ask them to do." (2:A1,A17)

The second area addressed by this paper is the application of military resources in the Counterdrug effort. This very controversial area has seen significant increases in military involvement during the last several years. While not organized, trained or equipped to undertake the counterdrug mission, the U.S. military has been directed, against its will, to accomplish this task. (16:19) As directed by the Congress, the Pentagon's

Counterdrug Budget has risen from \$439 million in 1989 to \$1.2 billion in 1992. This funding has attacked the drug war on three fronts: The Border Zone, where military aircraft and aerostat balloons detect drug planes. The Smuggling Zone, where AWACS and Navy ships search for smugglers aircraft and ships. Finally the third front, the Production Zone, where military activities in South America attack illegal drugs at the point they are being grown and produced. (16:21)

The push for military involvement in support of civilian law enforcement and the counterdrug effort are separate and distinct from the Chairman of the Joint Chiefs of Staff 1993 Roles and Missions review. The purpose of that review was to achieve greater efficiencies, obtain resource savings and improve the combat effectiveness of our armed forces. The roles and missions review did not seek to increase the number or type of military missions to accomplish but rather to look within the services at existing activities to improve jointness and eliminate waste.

The two areas chosen for examination in this paper are but two of many that have been proposed that go beyond the traditional missions of the "profession of arms". Peacekeeping, Peacemaking, Peace-enforcement, Humanitarian Relief, Counterterrorism, military support to education and operation of military style boot camps for criminal offenders, all have been proposed for accomplishment by the military.

This paper will review the factors affecting change, to include new fiscal realities, national interests that have provided the

historical and cultural make-up of America and the legal precedents provided by our constitution and laws. It will, using an adaption of former Secretary of Defense Casper Weinberger's Intervention Test, analyze the applicability of using the military to support law enforcement and to continue the military counterdrug effort.

The two non-traditional mission areas that will be examined have been said to be linked by a cause and effect relationship. The association between increased crime and the increase in the U.S. consumption of controlled-substances was made a matter of record by President Bush. In his enunciation of the National Drug Control Strategy publication, he formally proposed that the nation declare a "War on Drugs". The threat posed by illegal drugs and President Bush's responding declaration of "war" set the stage for the use of the military to address the crime and drug crisis.

CHAPTER II

FACTORS AFFECTING CHANGE

Fiscal Realities

Even before the fall of the Soviet Union and the victory of Desert Storm, the defense budget of the United States had begun to decline. In terms of "real" military appropriations, it declined at approximately two percent per year between fiscal years 1986-1990. (22:27) Adjusting for inflation the 1994 defense budget represented a 24 percent reduction below the 1990 funding level.

This gap increased to 34 percent when compared to 1985. At the current projected president's budgetary levels by 1997, the cumulative real decline since fiscal 1985 will exceed 41 percent. (23:7) Despite the signs of defense shortfalls of 35-50 billion, and the warning of a potentially hollow force, there continues to be political minority that calls for additional money to be transferred from the defense program into additional domestic programs.

The Bottom-Up Review was undertaken to select a force structure and infrastructure to support America's defense in Post-Cold War. It sized a military that was complementary in structure and weapons. The B.U.R. provided for the forces, infrastructure, training and support to meet the dangers, opportunities and uncertainty that may be faced, while recognizing the fiscal realities that faced the nation. However, the review has been criticized for not addressing the redundancy in roles and missions which allows for four air forces, a Marine Corps and an light Army. Redundancies were a luxury of the Cold War. Fiscal realities require the elimination of redundant capabilities in all governmental agencies. (25:9)

The Bottom-Up Review did not examine the resources required to involve military forces in the support of civilian law enforcement and increased counterdrug operations. This funding, like that of current peacekeeping and humanitarian operations, would be obtained within the existing budget and would require additional reductions.

National Interests

The incidence of violent crime in the United States rose dramatically during the 1980's and 1990's. Americans began to view the government as unable to protect them from this expanding threat. (15:1785)

Beginning in 1990, the collapse of the Soviet Union and the end of the Cold War brought demands for a "peace dividend". The new world order not only eliminated the United States' only concerted military threat but it also demonstrated the need for a new foreign policy. These dramatic events coupled with a change of political administration emersed Washington in a simultaneous search for new foreign policy strategies and for new roles and missions for the post-Cold War military.

In 1989, Washington DC officials began utilizing National Guard personnel at police roadblocks, and in administrative and technical law enforcement support functions. Initially, the use of military personnel was directed at the war against drugs. As the District's murder rate and the number of violent crimes increased, expanded missions for these personnel were suggested. The populace began to discuss the possible declaration of "situations of emergency" which would permit the use of national guard in an expanded law enforcement capacity. (4:B1) Mayor Kelly proclaimed in October 1993 that "We're talking about the National Guard standing on corners with M-16's. They would always be working in partnership with our officers". (3:A16)

Politicians were not alone in their call for the use of the military in non-traditional missions. By January 1992, General Powell had defined the military role in the national counterdrug strategy. The National Military Strategy addressed that when it noted: "In the United States proper, the military will support local, state, and federal agencies as permitted by law". (6:15)

President Bush in the January 1993 National Security Strategy expanded on the role of the national government in confronting the rising crime rate. One of the domestic imperatives he identified was to "...overcome the challenges of crime and drugs." (1:2)

The Justice Department's National Crime Victimization Survey estimates place the number of individuals injured by criminals during the last 20 years at nearly 37 million. (20:A1) The relationship between drugs and the increase in the homicide rate is provided by a study of incidents in Washington DC. In 1985, 21 percent of homicides were drug-related. This increased to 34 percent in 1986, 51 percent in 1987 and 80 percent in 1988. (21:101)

Legal Precedents

The Constitution of the United States under its responsibility to "...establish justice, insure domestic tranquility, ...and promote the general welfare" provided for authorities to deal with threats to the country. Congress provided the President the power to decide when a state of invasion or insurrection exists and the authority to call out the national guard. Section 4 of the

Constitution provided each state "...protection against invasion; and on application of the legislature against domestic violence.

(11:Section 15)

The American people, from the time of our founding fathers, have had a distrust of the military. The amendments to the Constitution were specifically developed to ensure protection against potential oppression of civil liberties by and in the name of the government. (11)

Legal opinions have also expressed a "traditional and strong resistance to any military intrusion into civilian affairs." (7:17) Legal precedence for military involvement in law enforcement had been specified in the Posse Comitatus Act of 1878. This act was codified to prevent future entanglements of the military in domestic law enforcement. It resulted from the public outcry which arose after Federal troops had become deeply involved with law enforcement activities in the South following the Civil War. The act prohibits active-duty service members, or Reserves from performing law enforcement functions of search, seizure or arrest. While encompassing much of the potential uses of the military in domestic law enforcement it is not absolute. The President has been authorized by Congress to direct military involvement in "otherwise illegal activities." An example of presidential directed involvement was President Eisenhower's use of troops to integrate public schools in Little Rock, Arkansas in 1957. The primary use of the presidential exceptions has involved enforcement of civil rights laws and in instances of civil disorder. (10:36)

The use of military forces in domestic emergencies have specifically been of short duration, with the primary purpose being the restoring of law and order. However, the exemption also has applicability to other law enforcement activities. (8:57)

Critics of expanded military authority in law enforcement argue that American civil rights will be one of its first victims. President Clinton's former nominee for Assistant Secretary of Defense for Peacekeeping contends that the national security apparatus has expanded the definition of "national security" to enable it to justify its existence. (9:141) This echo's the fears of our forefathers and their intent of limiting the police powers of our government. In 1989, Chairman of the Joint Chiefs stated: "If this is a national crisis, and I've heard it referred to as war-the drug war-you're probably going to have to infringe some human rights." (9:142)

CHAPTER III

ROLES AND MISSIONS TEST

Samuel Huntington, the director of Strategic Studies at Harvard University, contends that now that the Cold War has ended, the Defense Establishment must "debate the nature of our national interests and the roles of the Armed Forces." He contends that American defense policy must enter a distinct new phase similar to they did in 1784, 1815, 1898 and 1946. (13:38)

One method proposed during the Reagan Administration to evaluate the appropriateness of utilizing military forces was former Secretary Weinberger's Intervention Test. While the test was developed to evaluate the use of military forces in external traditional involvements, it can also be adapted to examine military applicability in nontraditional missions.

The test first provides that, "...forces should not be committed unless the particular engagement or occasion is deemed vital to our national interest." (12:13)

One of the primary purposes of the government set forth in the constitution, is to protect the people. "Does the failure to employ military forces against the domestic criminal element and drugs threaten the survival of major, vital American societal institutions ?"

In 1989, one in 34 Americans age 12 and over was the victim of violent crime. From 1985 - 1989 Americans have reported a 24% increase in violent crime. (14:100)

It is this discontent by the populace that made violent crime a concern to the political leaders of the United States. The threat posed to individuals who live in cities of 250,000 to 500,000 is greater than to those living in rural or suburban areas. Respectively, it is the political leadership of these large cities that have called for new and dramatic responses.

The leadership of the United States must remember that even threats to vital national interests require appropriate responses.

Simply listing the "challenges of crime and drugs" as a domestic imperative of the National Security Strategy does not justify the employment of military forces. Crime and drugs are two of several domestic issues which are adversely affecting our society and whose solution will take many years to effect. The instrument to fight crime and drugs is not the military who are not trained, equipped or resourced for this long term mission. Rather, a more appropriate response would be to utilize established federal, state and local law enforcement agencies who are already tasked with addressing these problems. President Clinton in his 1994 State of the Union Address called for increasing the number of police in the United States by 100,000 personnel to combat the increase in crime.

Military forces, as set forth in the constitution, can be utilized in emergencies for short-term restoration of law and order. Crime and drugs do pose a threat to vital national interests, but they are an internal threat that will take many years to neutralize. Evaluated solely on this criteria, military forces do have an application in addressing these issues, but only in emergency situations for short durations. The military cannot and should not train and equip for this contingency.

Weinbergers' second question contends that "if it is necessary to commit troops into a given situation, it should be done wholeheartedly and with the clear intention of winning."

In 1989 there were over 16,000 city, county and State law enforcement agencies involved in the "war on crime". (14:100)

It has been the Congress that has moved the military towards involvement in civilian law enforcement. The Military Cooperation with Civilian Law Enforcement Agencies Act of 1981 began this trend. (15:1785) One of the tenets of this assistance to law enforcement was that the "fundamental and paramount goal of the military is national defense. Thus, a request for assistance may not be approved if it will have an adverse consequence with respect to military preparedness." (15:1793)

To this point in time, the degree of commitment of military forces has been limited. Not only does the authorizing language leave to judgement "when" adverse consequences to military preparedness occurs, it does not specify who makes this decision. Between 1989 and the present only two dozen national guardsmen have been used to assist the police in Washington DC. This commitment has also been limited by the fact most guardsmen only serve on the weekends. (3:A1)

The second half of the question is even more difficult, can military forces "win" the war on crime and drugs. The answer to this question depends on the degree of commitment and the "Rules of Engagement". During the drafting of the Posse Comitatus Act, Senator Hill stated "Whenever you conclude that it is right to use the Army to execute civil process... it is no longer a government founded upon the consent of the people; it has become a government of force." (15:1793)

"The U.S. drug problem has worsened despite the expenditure of \$38 billion on federal drug control programs since 1989, the creation of a drug czar, stiffer prison sentences, the forcible overthrow of the Noriega regime, and the active use of the U.S. armed forces in the drug war." (19:X)

This quote from the report by the Center for Strategic and International Studies project on the Global Drug Trade in the Post-Cold War demonstrates the frustration over the ineffectiveness of the "War on Drugs".

The third part of the Intervention Test says; "If military forces are committed there should be clearly defined political and military objectives."

In Washington DC, the mayor and police chief have requested the authority to utilize military forces but no-one has a plan outlining objectives. Basic questions such as delegation of command and control to civilian authorities and even if the troops would be armed have not been made. (3:A16)

Committing military forces to the enforcement of domestic law raises questions of constitutional protection and involvement of federal government in state and local affairs. (4:B1)

The setting of political and military objectives for military forces operating throughout the country, in cities with different criminal threats is not possible. Both political officials and law enforcement personnel admit police failure but concede that they do not know what objectives require accomplishment to achieve victory. One Washington political official stated; "Unfortunately, we are at

one of those times in history when we see no positive choices and must choose between threatening evils." (4:B5)

Once committed, question four of the Weinberger criteria calls for "the relationship between objectives and forces committed—their size, composition and disposition—be continually reassessed and adjusted if necessary."

There is a distinct difference between police action (law enforcement) and military operations. Police derive their authority from legitimate authority as "officers of the law". Military operations derive their authority from firepower. (5:92)

Utilizing military forces to fight the metaphorical "war on crime" quickly becomes a question of basic doctrine. Police doctrine and training is distinctly different from that of the military. As one law enforcement official stated "the military can kill people better than we can". (16:23)

This part of the test should intellectually posture our leaders to return to the question and again ask; does this national interest require the use of military forces? Congress has provided this answer in the language of the Defense Authorization Act of Public Law 100-456.

"It makes little sense to create a situation in which the military skills of members of the armed forces will atrophy while they spend months receiving law enforcement training. To the extent that we need more individuals to perform law enforcement functions, the most cost-effective way to do so is to provide the law enforcement agencies with the necessary personnel." (17:2581)

Vietnam demonstrated the affect that the "will of the people" have on an issue. Question five states "...there must be some reasonable assurance that the American people and their elected officials will support the action."

Is, as Tom Clancy asked, there a Clear and Present Danger ? Yes, a danger exists from the increase in violent crime. But the public has already questioned if this threat warrants the potential loss of their constitutional rights. (9:142) Even in cities such as Washington DC, elements of the political structure have criticized the mayor for failing to demanded that the questions of constitutional protection be decided prior to asking for the use of the military. (4:B1)

Even before committing military forces, there is little support for utilizing the military's limited resources and distinctly different training and capabilities to support domestic law enforcement.

The final question states that the commitment of military forces should be one of last resort. To date, no federal law enforcement agency has requested use of military personnel to supplement their arrest, search and seizure functions. (17:2581) The request by the mayor of Washington DC was one "responding to the repeated requests from citizens". Mayor Kelly's city council criticized this request stating that "the mayor had not fully utilized all the available resources" prior to issuing the call for military assistance. (4:B5)

The individuals who have called for a wider role for military involvement in law enforcement and counterdrug operations are naively searching for "creative solutions" to "hot" issues. They have sought these new missions as a means of defending budgets, and appeasing political officials whose emphasize domestic programs. (2:A1)

The entire purpose that military forces have been created and maintained throughout history has been antihumanitarian: to kill people. A force created for these reasons and trained for these purposes cannot be economically shifted to law enforcement duties. The past use of military forces in non-military roles and missions has been possible by use of "spillover" or excess assets. Additionally, the military attributes of organization, training and equipment still make it an attractive asset to address non-military problems. The military today does not have this surplus of personnel or resources. The post Cold-War military force levels do not permit this luxury. (13:43)

None of the reasons cited for utilizing military forces pass Secretary Weinbergers last question. There exists better solutions to the crime and drug problem than the use of the military. The use of military forces must always be the last option. President Clinton recognized and related this to the Mayor of Washington through his offer of non-military resources to address her request. (2:A1)

CHAPTER IV

CONCLUSION

The long-term external National Security interests of the United States are not directly jeopardized by either the internal criminal threat or the counterdrug war.

Some statistics indicate that the violent crime rate has actually declined by 3% during the first six months of 1993. Criminologists advise that it is not the amount of violent crime that exist today rather, its politicalization that has resulted in its increased attention. This politicalization has occurred as a result of the large percentage of juveniles that are both victims and participants in violent crime. (18)

The *raison d'etre*, or principal role of the military is combat: to deter and defeat enemies of the United States. (13:39) Aside from the question of the need to utilize the military in domestic law enforcement and counterdrug operations, its use in this capacity is arguably, counter to both the spirit and intent of the Constitution and resource wasteful.

The use of the military in domestic law enforcement and counterdrug activities could indirectly pose a risk to national security interests. This risk would be one that evolved from the military using its limited resources to train and equip forces whose *raison d'etre* were altered from combat to domestic support activities. The choices that the Snyder Model dictates must be

made rationally. The nation must maintain a military capability to defeat nations who might militarily oppose the national interests of the United States.

At a time of personnel and infrastructure reductions the rational of adding non-related missions which are redundant to those executed by existing civilian agencies is counterproductive. A strategy of increasing missions while decreasing resources does not pass the analysis of either the Snyder Model or the Weinberger Test. The American leadership should concentrate on non-military solutions to the domestic criminal and drug problems. Military support to domestic law enforcement should remain as it is under current Posse Comitatus Act interpretations. Any increase "would fundamentally alter the nature of the relationship between the military and civilian society." (15:1794) This would result in both the alienation of the military and a resource draining, morale degrading involvement that could leave the country with a military that cannot defend the nation.

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