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**THE WEINBERGER DOCTRINE AND THE INVASION OF PANAMA:  
DETERMINING JUST CAUSE FOR WAR**

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LTCOL. BEN SAYLOR/CLASS OF 1997  
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SEMINAR J  
CAPTAIN C MAYER, USN  
COLONEL N E WILLIAMS, USMC

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## JUS AD BELLUM?

From the earliest days of our Republic, our nation's leaders have grappled with the complexities of just cause for war. In Federalist Number 3 John Jay wrote, "The just causes for war for the most part arise either from violation of treaties, or from direct violence."<sup>1</sup> From this early proposition, the debate has evolved in the 20<sup>th</sup> Century to embody not only questions of cause, but the associated questions of justice, intent, and proportionality as well.<sup>2</sup> In our nation's history, the debate has rarely been more emotional or demonstrative than in 1973 when Congress overrode a presidential veto to pass the War Powers Resolution based on their dissatisfaction with President Nixon's expanded use of force in Cambodia. The clear intent of this legislation was to check the President's power as Commander in Chief and assure greater Congressional influence in determining just cause to employ our military.<sup>3</sup>

In a speech given to The National Press Club in November 1984, then Secretary of State Casper Weinberger enunciated six definitive tests for determining the circumstances and conditions that must be met to warrant the "painful decision" to use military force. As he put it, "We should all remember these are the policies – indeed the only policies – that can preserve for ourselves, our friends, and our posterity, peace with freedom."<sup>4</sup> These six tests, known as the Weinberger Doctrine, have provided an important framework for America's concept of "jus ad bellum" for over a decade. Yet the debate over just cause persists and spawns renewed tension between the President, Congress, and the American people with each successive call for military intervention.

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<sup>1</sup> Jacob E. Cooke, ed., *The Federalist* (Middletown, CT: Wesleyan University Press, 1961), 14

<sup>2</sup> James Turner Johnson, *Can Modern War be Just?* (New Haven, CT: Yale University Press, 1984), 19

<sup>3</sup> Cecil V. Crabb, Jr. and Pat M. Holt, *Invitation to Struggle: Congress, the President, and Foreign Policy*, 3<sup>rd</sup> ed. (Washington, D.C.: Congressional Quarterly, Inc., 1989), 142

<sup>4</sup> Stephen Daggett and Nina Serafino, *The Use of Force: Key Statements by Weinberger, Shultz, Aspin, Bush, Powell, Albright, and Perry* (Washington, D.C.: Congressional Research Service, 1995), 9

The purpose of this paper is to examine one of the early applications of the Weinberger Doctrine, aptly named Operation Just Cause. This analysis will focus on the crucial period immediately preceding the invasion of Panama in late December 1989 and examine the decisions and policies of the President, as influenced by the Congress and the media, against the restraints contained in Weinberger's six tests. As this analysis will reveal, although the influence of the Congress and the media are significant, the ultimate threshold for determining just cause for war resides fully in the heart and mind of our nation's Commander in Chief.

## ROAD TO WAR

The invasion of Panama had its roots in the growing estrangement between the United States and the head of the Panamanian Defense Force (PDF), General Manuel Noriega.<sup>5</sup> In the early to mid-1980s, Noriega's assistance in supporting the Nicaraguan Contras engendered a positive rapport with the Reagan administration. That rapport disintegrated abruptly in February 1988, however, in the aftermath of two pivotal events. First, Noriega was indicted on drug trafficking charges by grand juries in Miami and Tampa. Second, he seized control of the Panamanian government in retribution for President Delvalle's efforts, involving the U.S. State Department, to remove him as PDF commander.<sup>6</sup> Following these events and based on bipartisan support from Congress, the Reagan administration implemented political and economic sanctions against the Noriega regime in an attempt to remove him from power.

In the first year of the Bush administration several highly publicized incidents occurred that served to galvanize American public opinion against Noriega and focus heightened scrutiny of events in

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<sup>5</sup> Richard N. Haas, *Intervention: The Use of Force in the Post-Cold War* (Washington, D.C.: Carnegie Endowment for International Peace, 1994), 30.

<sup>6</sup> Paul E. Peterson, ed., *The President, the Congress, and the Making of Foreign Policy* (Norman, OK: University of Oklahoma Press, 1994), 218.

Panama from the White House and Congress. In March 1989, the PDF detained several DoD buses carrying American dependent school children. Subsequent to this incident, President Bush ordered that all DoD personnel and dependents move aboard U S military installations along with a concurrent reduction in U S Embassy personnel.<sup>7</sup> Later in May, Noriega nullified the results of national elections, monitored by an international delegation, in which his candidate for president was soundly defeated. Compounding this, PDF-backed “dignity battalions” attacked and brutally beat the victorious vice presidential candidate at a public rally that received prominent international media coverage. Considering these events and a growing pattern of abuses, the Organization of American States (OAS) officially condemned the Noriega regime and the Bush administration made Noriega’s ouster and replacement with a democratic government a key priority as set forth in NSD 17, published in late July<sup>8</sup>

On 3 October 1989, a number of PDF officers led by Major Moises Giroldi attempted a coup to forcibly remove Noriega from power. Although the National Command Authority was aware of the coup in advance, Giroldi only asked for peripheral assistance in blocking roads and, in terms of the conduct of the coup, had explicitly asked that the U S. “stay out of it.”<sup>9</sup> Considering this and lack of knowledge of the coup’s ultimate aim, the President directed that no support be provided unless Giroldi agreed to return Panama to civilian rule.<sup>10</sup> Although Noriega was captured and held for several hours, the coup ultimately failed and the Bush administration came under immediate Congressional attack for not capitalizing on what appeared to be a prime opportunity for Noriega’s ouster and arrest

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<sup>7</sup> John T. Fishel, *The Fog of Peace: Planning and Executing the Restoration of Panama* (Carlisle Barracks, PA: Strategic Studies Institute, U S Army War College, 1992), 3

<sup>8</sup> Ronald H. Cole, *Operation Just Cause: The Planning and Executing of Joint Operations in Panama February 1988 - January 1990* (Washington, D C: Joint History Office, Office of the Chairman of the Joint Chiefs of Staff, 1995), 12

<sup>9</sup> Senate Committee on Armed Services and the Select Committee on Intelligence, *1989 Events in Panama*, 101<sup>st</sup> Cong., 1<sup>st</sup> sess., October 6, 17 and December 22, 1989, 95

<sup>10</sup> Colin L. Powell with Joseph E. Persico, *My American Journey* (New York: Random House, Inc., 1995), 418

Following the failed coup attempt, the Bush administration increased political and economic sanctions and began to augment U.S. forces in Panama with heavy equipment and personnel. Additionally, the administration announced that as of 1 January 1990, Panamanian-flagged vessels would not be permitted to enter U.S. ports. In November at the 19<sup>th</sup> OAS General Assembly, the Inter-American Human Rights Commission issued a report denouncing the Noriega regime and declaring it “devoid of constitutional legitimacy”<sup>1</sup>. On 15 December 1989, in response to mounting U.S. and international pressure, the Noriega-controlled National Assembly passed a resolution declaring a “state of war”.

On the following evening, Marine Lieutenant Robert Paz was shot at a PDF checkpoint and died soon thereafter. Moreover, a Navy Lieutenant and his wife that witnessed the shooting were taken into PDF custody and while detained were physically and psychologically abused. Less than 24 hours later at a meeting of key advisors at the White House, President Bush gave the order to initiate Operation Just Cause<sup>2</sup>.

### THE COMMANDER IN CHIEF

Table 1 (see page ten) provides a complete listing of the six tests that comprise the Weinberger Doctrine. Of these tests, the first dealing with vital interests, the fifth dealing with public and Congressional support, and the sixth espousing force as a last resort require a subjective assessment and decision by the Commander in Chief on whether just cause exists to employ military force. The other three tests, the second dealing with commitment to win, the third dealing with clearly defined objectives, and the fourth dealing with force composition, although vitally important, are more explicit in nature and deal with how to employ force once the Commander in Chief has decided that the just

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<sup>1</sup> Peterson, 219

<sup>2</sup> Fishel, 4

cause threshold has been met

In presenting his six tests, Weinberger had this to say about the decision-making process associated with their application, “Regardless of whether conflicts are limited, or threats are ill-defined, we must be capable of quickly determining that the threats and conflicts either do or do not affect the vital interests of the United States and our allies. and then responding appropriately”<sup>13</sup> Ideally, when contemplating use of force our vital interests will be consistent with those of our allies. However in this case, as will be discussed below, the president was faced with the formidable challenge of pursuing our vital interests in the face of international opposition

The legal justification provided by the Bush Administration for Operation Just Cause cited the authority to protect U.S citizens and installations under Article 51 of the U N Charter and Article 21 of the OAS Charter, as well as the authority to protect the Panama Canal under the provisions of Article IV of the Panama Canal Treaty.<sup>14</sup> In consonance with the legal justification, four political objectives were established for Operation Just Cause, as follows to safeguard Americans lives, to protect the democratic election process, to apprehend Noriega and bring him to justice in the United States, and, finally, to protect the integrity of the Panama Canal Treaty<sup>15</sup>

Arguably, although each of these objectives represented important national interests, the only one deemed vital in President Bush’s view was the need to safeguard American lives That was clearly reflected in his address to the American people on 20 December during which he stated, “I took this action only after reaching the conclusion that every other avenue was closed and the lives of American citizens were in grave danger”<sup>16</sup> Additionally, the circumstances associated with each of the other

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<sup>13</sup> Daggett and Serafino, 12

<sup>14</sup> Cole, 43

<sup>15</sup> Report of the General Accounting Office to the Honorable Charles B Rangel, House of Representatives, *Panama Issues Relating to the U S Invasion*. (Washington, D C General Accounting Office, 1991), 1

<sup>16</sup> Cole, 43

three political objectives had existed since the previous May and had not collectively provided sufficient justification for military intervention. The only dynamic in the strategic calculus that had changed since May was the pressing immediate need to safeguard American lives. Ultimately, that was the trigger that constituted just cause in President Bush's thinking and compelled him to act

Whereas President Bush had a clear vision of what he deemed vital to our national interests, he did not let lack of allied support dissuade him from the use of force or influence the action once the plan was put in motion. Since forcibly taking power in February 1988, the Noriega regime had been the subject of frequent condemnation from both the United Nations and the OAS. However, following the invasion, the U.S. became the subject of international criticism. Even though the State Department provided foreign embassies with the legal basis for the invasion, the OAS passed a near unanimous resolution "regretting" the intervention, urging cessation of hostilities, and requesting withdrawal of U.S. forces<sup>17</sup> Additionally, on 29 December 1989, the U.N. General Assembly adopted a resolution alleging that the U.S. action was a violation of international law.<sup>18</sup> Considering this and the fact that the administration did not deviate once committed, it is clear that President Bush viewed the protection of American lives as ample justification to act unilaterally despite international criticism.

From the foregoing, it is clear that safeguarding American lives weighed heavily in President Bush's thinking to the extent that he was willing to commit military force without international backing. Thus, in terms of the Weinberger Doctrine, the President's policies and decisions only partially met the criteria contained in the first test regarding vital interests. It is also clear from the President's 20 December address to the nation, and the administration's previous unsuccessful use of political and economic sanctions, that military intervention at this juncture was a necessary last resort

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<sup>17</sup> Report of the General Accounting Office to the Honorable Charles B. Rangel, House of Representatives, 2

<sup>18</sup> Ibid., 3



Thus, the President's policies and decisions fully met the criteria contained in Weinberger's sixth test. The third and final requisite in the Weinberger Doctrine essential to formulation of just cause is test five that deals with public and congressional support.

### THE CONGRESS

President Bush informally notified Congress of his intentions to invade Panama several hours before operations were scheduled to commence at 0100 on 20 December.<sup>19</sup> He followed that with formal written notification delivered to Congress on 21 December 1989. In the written report, President Bush stated that he ordered the invasion in his capacity as Commander in Chief and based on his authority to conduct foreign policy under the U.S. Constitution.<sup>20</sup> Although President Bush did not consult with congressional leaders prior to deciding to invade, Congress nonetheless played an influential role in shaping his views on the efficacy and need for military intervention.

Following the unsuccessful Gironi coup attempt in early October 1989, President Bush came under immediate bipartisan attack from the Congressional leadership. As General Powell described it, "Democrats and Republicans in Congress began jumping all over the administration for blowing a supposedly golden opportunity to dump Noriega."<sup>21</sup> Secretary Cheney and General Powell, along with key members of the OSD and Joint Staffs, testified at joint Senate hearings on 6 October. As an adjunct, General Thurman, Commander in Chief of U.S. Southern Command, testified before the same Senate committees on 17 October. Notably, interviews of the President and several close advisors conducted in late December, revealed that the Congressional pressure applied after the failed coup was instrumental in persuading the President of the need for an invasion and convincing him that it would

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<sup>19</sup> Haas, 31

<sup>20</sup> Report of the General Accounting Office to the Honorable Charles B. Rangel, House of Representatives, 5

<sup>21</sup> Powell with Persico, 420

receive the support of both the Congress and the American people<sup>22</sup>

Consequently, in an interesting turn of events, the President was able to deduce through Congressional criticism that the American people and Congress would rally behind his plan for military intervention. With that assurance and no other viable options to safeguard American lives, tests one, five and six of the Weinberger Doctrine had been met and President Bush had just cause to order the invasion of Panama.

### THE MEDIA

Although President Bush used Congress as his principal barometer in judging whether he would have public support for the invasion, the media played a pivotal role in communicating the key incidents in mid-December that triggered the final decision. As Ted Koppel told his *Nightline* audience on 20 December, "When during the past few days Noriega declared war on the United States and some of his followers then killed a U S Marine, roughed up another American serviceman, also threatening that man's wife, strong public support for a reprisal was all but guaranteed"<sup>23</sup>. This and other television, radio and print stories helped to intensify public emotions and engender support for both the invasion and the president. A CBS poll taken in early January 1990 found that 74% of the American people believed the invasion was justified and 76% believed that President Bush was doing a good job<sup>24</sup>.

Although the media played a key role in shaping public opinion in support of the invasion, media coverage during the operation was hampered by DoD policy and procedures. For operations in Panama, a DoD National Media Pool (DNMP) was established and deployed into theater without the

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<sup>22</sup> Peterson, 220

<sup>23</sup> Mark Cook and Jeff Cohen, "The Media Goes to War: How Television Sold the Panama Invasion," *Extra!* (January-February 1990) 1-13

<sup>24</sup> Peterson, 263

support of local military commanders whose assistance was necessary for remote, onsite reporting<sup>25</sup> Although public awareness and support for combat operations remained exceptionally high throughout, this flaw was detrimental to the quality and quantity of media coverage received from Panama Based on these problems, DoD media policy and procedures were comprehensively reviewed and updated prior to the Gulf War

## CONCLUSION

The role and utility of military force as an instrument of statecraft will continue to evolve as we move away from the Cold-War era and step up to face the challenges of the 21<sup>st</sup> Century On speed and course with that evolution will be our prescriptions for determining just cause to apply that force The Weinberger Doctrine, though the product of a bipolar era, has provided a valuable framework for guiding decisions on the use of force for over a decade Just as our founding fathers grappled with the complexities of just cause for war, President Bush contended with the intricacies of the Weinberger Doctrine in determining just cause to invade Panama. Though the Congress and the media played peripheral roles, the ultimate decision to invade rested solely with the Commander in Chief

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<sup>25</sup> Frank Aukofer and William P. Lawrence, *America's Team The Odd Couple -- A Report on the Relationship Between the Media and the Military* (Nashville, TN: The Freedom Forum First Amendment Center, 1995), 45

## TABLE 1. THE WEINBERGER DOCTRINE\*

- 1 The United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies
2. If we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all
- 3 If we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that
- 4 The relationship between our objectives and the forces we have committed – their size, composition and disposition – must be continually reassessed and adjusted if necessary
- 5 Before the U S commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face, this support cannot be sustained without continuing and close consultation
- 6 The commitment of U.S. forces to combat should be a last resort.

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\* Source: Stephen Daggett and Nina Serafino, *The Use of Force: Key Statements by Weinberger, Shultz, Aspin, Bush, Powell, Albright, and Perry*, 5<sup>th</sup> ed (Washington, D C: Congressional Research Service, 1995), 13-14

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