



**STRATEGY
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FRAMEWORK FOR DOMESTIC ENGAGEMENT

BY

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MAY 5, 2000

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ABSTRACT

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In 1984 Secretary of Defense Caspar W. Weinberger outlined four criteria for a strategic framework that would "weigh the use of United States combat forces abroad."¹ Although Weinberger's framework was designed for international commitment of military power, the scenario this paper reviews is the involvement of military forces in response to a weapon of mass destruction (WMD) on American soil. This paper reviews the applicability of the Weinberger criteria to provide a framework for evaluating the commitment of United States military forces in a domestic engagement.

1. Is the incident a national security issue? This paper provides a cursory analysis of the risk of a domestic WMD incident, and the threat that this event would pose to national security.
2. Do American citizens' support the use of military forces in response to the incident? Present laws, statutes, and presidential directives provide a basis for military support to civilian law enforcement agencies in certain circumstances, but these special circumstances require careful consideration to ensure they meet the intent of the law and do not violate the Posse Comitatus Act of 1878.
3. Does the United States military have the right force for the job? In response to a WMD, wielded against an American community, the United States armed forces may be the only entity capable of providing massive and immediate consequence management support.
4. Does the military have a clear exit strategy? With this criterion we define the end-state for military involvement and examine current disengagement strategies. This criterion ensures that military forces are deployed with defined expectations and that once those goals are obtained the force is disengaged from domestic support operations.

Through separate analysis, of each of the four criteria listed above, the question is answered: The Weinberger criteria for engagement of military forces should be used to evaluate the deployment of forces in response to a domestic WMD incident.

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Executive Summary

In 1984 Secretary of Defense Caspar W. Weinberger outlined criteria for a strategic framework that would "weigh the use of United States combat forces abroad."¹ Although Weinberger's framework was designed for international commitment of military power, the scenario this paper reviews is the involvement of military forces in response to a weapon of mass destruction (WMD) on American soil. This paper reviews the applicability of the Weinberger criteria to provide a framework for evaluating the commitment of United States military forces in a domestic engagement.

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Through analysis of each of the four criteria listed above, the question is answered: The Weinberger criteria for engagement of military forces should be used to evaluate the deployment of forces in response to a domestic WMD incident.

Chapter 1 Strategic Criteria

*"After a fatal procrastination, not only vigorous measures but of preparations for such,
we took a step as decisive as the passage of the Rubicon,
and now find ourselves plunged at once in most serious war
without a single requisition, gunpowder excepted, for carrying it on"*

Lieutenant General Sir John Burgoyne, April 1775

Letter from Boston after the Battle of Lexington²

At the writing of this letter the British Empire was the premier power of the world and the sword that she wielded, in the form of her armed forces, was battle hardened, well equipped and professionally trained. Yet this magnificent military was prepared to fight and win the last battle of their last war; they were unable and unwilling to adapt to the type of conflict waged by the rebellious colonies, and lost a part of the British Empire, forever. History is replete with military forces that did not possess the vision to capture and prepare for the next threat and were consequently defeated. America, with the victory of the Cold War, has emerged in the 21st century with an even greater military domination than the British Empire of the 18th century. Not unlike the challenge that Britain faced, our national security could be at risk if we do not take appropriate action to prepare for future combat. Today our military remains primarily focused on preparation for fighting and winning the last battle of our last war. We should not

repeat the *"fatal procrastination"* experienced by the British through which we secured our own liberties - the risk in maintaining our own freedoms could be irrevocable. We should take *"vigorous measures"* to prepare for the first battle of the next war.

On the verge of the Globalization Era, America's armed forces have obtained some semblance of military dominance throughout the world. No other military in modernity has both the strategic goal and the capability of fighting and winning two major theater wars simultaneously. Recognition of this ability has not escaped the tactical and strategic assessment of American state and non-state enemies. International and domestic foes are acutely aware of the advantage that American military forces command in conventional warfare. Since the United States dominates the modern battlefield our opponents are relegated to identify national weaknesses and seek an alternative method of engagement. Into this realm a weapon of mass destruction may emerge as a strategic methodology to attack the United States: threatening personal security, civil liberties, democratic society, and the free market economy.

Two renowned strategic thinkers of our time, William J. Perry and Ashton B. Carter, warn that catastrophic terrorism is one of five potential "A list" threats to American National Security. *"This threat has the potential to change Americans' perception of their security within their own homeland and thus to change our society itself."*³ Perry and Carter define the "A list" as a threat that impacts directly the very survival of the United States.

In recognition of this threat recent legislation has tasked the Department of Defense with providing some level of response. At the same time, responding to domestic terrorism, and the

consequence caused by a weapon of mass destruction on American soil, is somewhat uncharted territory for the United States armed forces. Hence, when faced with what appears to be a new challenge, it may be prudent to review present response factors and determine if they are applicable. In 1984 Secretary of Defense Casper W. Weinberger provided timeless wisdom in outlining strategic criteria for the engagement of American military forces.⁴ These criteria were enacted to ensure the proper use of the military and were designed primarily to gauge response to an international emergency:

- 1) Ensure that the military operation concerns national security.
- 2) The military operation must have the support of the American people.
- 3) The military must have a strong enough force to accomplish the mission.
- 4) Military objectives must provide a clear exit strategy.

The primary mission of the United States' armed forces is to fight and win our nation's wars. Ideally the response strategy applied to the threat of domestic WMD would resemble the strategy exercised in international warfare. Strategic simplification is secured if the criterion for engagement of our armed forces applies across the entire spectrum of military deployment. This paper examines the armed forces strategic criteria for engagement (as outlined by Secretary Weinberger) for its application to a domestic WMD incident.

The first criterion examines whether the deployment of military forces (in responding to a domestic WMD incident) concerns our national security. This paper provides a cursory analysis in regards to the risk of a domestic WMD incident, and the threat that this event would pose to national security. Simply stated - for this criterion to fit and thus military forces be utilized, responding to terrorism and the consequence caused by a weapon of mass destruction on American soil must be a threat to national security.

The second criterion examines American citizens' support for the use of military forces in response to a domestic WMD incident. Present laws, statutes, and presidential directives provide a basis for military support to civilian law enforcement agencies in certain circumstances, but these special circumstances require careful consideration to ensure they meet the intent of the law and do not violate the Posse Comitatus Act of 1878. The danger of a haphazard and militant response to a catastrophic event could be worse than the attack itself. If we cannot determine a sensible course of action, then governmental policy and public expectations are both likely to lurch between the Scylla of militant action and the Charybdis of cynical disengagement. Thus, prior to the engagement of military forces America must support military involvement.

The third criterion examines the United States military's ability to respond to consequence management of a domestic WMD incident. In response to a WMD, against an American community, the United States armed forces may be the only entity capable of providing massive and immediate consequence management support. Many conventional warfare resources can be utilized for a domestic consequence management mission: rapid

deployment, disciplined command and control structure, self-sustaining logistics, ground-air-sea mobility, a large manpower pool, and a force trained to operate in a nuclear, biological and chemically contaminated environment. Within this criterion - prior to military forces being engaged we must possess the right force.

The final criterion examines the United States Armed Forces' exit strategy after employment for consequence management of a domestic WMD event. With this criterion we define the end-state for military involvement and examine current disengagement strategies. This criterion ensures that military forces are deployed with defined expectations and that once those goals are obtained the force is disengaged from domestic support operations.

Chapter 2: What is the Threat to National Security?

"If you looked at any one American city and said, what are the odds of it happening in city X? You can perhaps say the odds of it happening are pretty strongly against it. But if you looked at all the American cities and say, what are the odds of a chemical or biological attack in one or more of these cities in the next 2 to 3 to 4 or 5 years, I'd say the odds are pretty strong that it will happen." - Senator Sam Nunn.⁵

For the first criterion of the Weinberger Doctrine to fit, and thus the use of military force is appropriate, there must be a clear threat to national security. The threat of a domestic WMD being utilized on American soil is difficult to measure - and the actual consequence of a catastrophic event on national security can only be perceived. In light of this challenge, it seems that we can take one of two courses of action - we can assume that the threat is real based upon expert testimony - or we can examine a course of deductive logic and evidence to help us define the threat. This chapter pursues the latter by providing an analysis in regards to the risk of a domestic WMD incident, and the threat that this event would pose to national security. This threat assessment is accomplished by defining terrorism, probing the use of terror in American history, examining the present threat and predicting the potential use of a WMD in America.

Terrorism Defined

Terrorism is defined in the Oxford English Dictionary as "politically motivated violence intended to strike with terror those against whom it is adopted through the employment of intimidation." Generally terrorism is descriptive of someone who utilizes unconventional techniques of war to further their cause. Terrorists rarely have the financial capability or the military strength to wage war against the security forces of a nation state. As such they seek targets of opportunity normally directed against innocent civilians, but at times they target military and law enforcement organizations. Terrorists undermine the confidence in government to safeguard its citizenry.

It is recognized that both state and non-state actors utilize terrorism. With the military prowess of some nations, weaker nations cannot compete on the conventional battlefield and thus may seek to find an alternate method in which to press their cause. This may manifest itself as state supported terrorism. Non-state terrorism may be an option of resistance that a sector of a society employs against the state. For the purpose of this paper we do not need to distinguish between state and non-state terrorism - the initial use of military forces in response to consequence management of a WMD incident on American soil is assumed to be the same for either state or non-state actors.

History of Terrorism in the United States

Dr. Richard E. Neustadt and Dr. Ernest R. May, professors at Harvard University, outline the criticality of utilizing history in their book, Thinking In Time. They espouse that the process of reviewing history can serve as an effective backdrop for understanding modernity and when

effectively used, serve decision-makers admirably. Within the context of this research, it is interesting that although a review of United States history indicates the evidence of domestic terrorism, Americans largely remain averse to acknowledge this fact. This inability to properly interpret history may lead Americans to envision terrorism as something that happens "over there" and thus create the misperception that we have little national experience in dealing with terrorism. The potential reality of this national psychosis may make us dramatically more vulnerable to a terrorist incident than if we were able to recognize that domestic terrorism is not a new event in American history.

Terrorism emerged on the American continent in the earliest stages of this nation's founding. Accepting that the definition of terrorism is "politically motivated violence" then it is logically argued that terrorism was utilized in the founding of this nation. The British merchants, whose tea was dumped into Boston Harbor, viewed this rebellious act as an incident of terror directed against the United Kingdom. Evidence of terrorism occurred in the aftermath of the American Civil War with the advent of the Ku Klux Klan. The Klan is often depicted simply as racist bigotry - but at inception it was a continuance of violence directed against the federal government. In the 1880s Anarchists generated enough interest to attract tens of thousands of subscribers to a periodical that demanded the violent overthrow of the government. In the early 1970s, a group of terrorists known as the Order of the Rising Sun, accumulated a large quantity of typhoid which they planned to release in the water supplies of a few American cities. Bombings of the Oklahoma City Federal Building and the World Trade Center provide a more recent history of terrorism in the United States. These few examples provide a cursory review of history and indicate that terrorism has an account in America's past.

Current Indicators of the Threat

A few renowned academic scholars and some military analysts warn of the increasing emergence of terrorism. The challenge with utilizing statistics is that the numbers can sometimes be molded to convey the message that is desired. A fact that cannot be disputed, and one that is recognized by most experts, is that recent statistics in the United States, suggests that terrorism is a low-level threat. This statement is perhaps best visualized through an incident report of domestic terrorism compiled by the FBI. The simple conclusion of this threat assessment relegates the definition of terrorism in the United States as a low probability event.

Table 1

Terrorism in the United States 1990-1997:

	1990	1991	1992	1993	1994	1995	1996	1997
Incidents	7	5	4	12	0	1	3	2
Suspected Incidents	1	1	0	2	1	1	0	2

Source: Counterterrorism Threat Assessment and Warning Unit, National Security Division, Terrorism in the United States 1997, page 3.

When an examination of international terrorism is conducted statistics reveal that the number of terrorist incidents is on the decline. Within a ten-year period, from 1979 to 1988, there were, on average, 549 international terrorist attacks per year. Whereas from 1989 to 1998 there were, on average 381 international terrorist attacks per year. Unfortunately, a decline with incidents of international terrorism does not necessarily correspond with a decline in fatalities and may not

correspond to domestic security. Of the fifty-four international terrorist groups identified by the US State Department, three of these groups operate in North America - Aum Shinrikyo, Hizballah, and Jamaat ul-Fuqra. These three terrorist groups pose a threat to American citizens. Aum Shinrikyo members released sarin nerve gas in several Tokyo subways which killed twelve people and injured up to six thousand. Hizballah members drove the suicide truck bombs into the U.S. Embassy and US Marine barracks in Beirut in 1983 and attacked the Israeli Embassy in Argentina in 1992. Terrorist cells from Jamaat ul-Fuqra, in the 1980s, conducted assassinations and fire-bombings across the United States. Each of these three terrorist groups is strongly anti-western and maintains a presence in North America.⁶

The corresponding conclusion from this data is candidly enigmatic. Perhaps the only conclusion safely defined is that the risk of a domestic terrorism incident is of low probability.

Future Terror

With little indication of an emerging threat the future is further complicated. There is already an increase in the lethality of weapons as modern terrorists are armed with assault rifles and explosives. Current technology is available to provide terrorists with more lethal weapons. In order to continue to garner national and worldwide headlines terrorists may look to escalate their level of violence. They may seek to find more lucrative targets with a higher media payoff.

In 1997 the Director of the CIA, George Tenet, warned that terrorists in the near future will pose an ever-increasing threat to the United States and that some may consider using weapons of mass destruction.⁷ Weapons of mass destruction may prove to be potent weapons for terrorists because of the negative psychological impact that their use may have on the American public. The creation of chaos, fear, and intimidation is the goal of a terrorist act, and few things exist outside the realm of weapons of mass destruction that could equate to the hysteria generated by a WMD. A WMD creates fear greater than the initial destruction as these weapons also harness the fear of the unknown. Besides initial loss of life in a WMD incident - those who "survive" the event are at times left wondering if or when they will acquire symptoms from the weapon - the "worried well."

Utilization of a nuclear device to wage terror is the least likely method. Least likely does not mean there is little threat from a nuclear device. This fear has been further compounded with the breakup of the Soviet Union and the corresponding lack of security on nuclear weapons and enriched uranium in former Warsaw Pact nations. Recently, from one of these countries, three individuals were arrested with eleven pounds of weapons grade uranium (eight kilograms is required for an atomic bomb⁸) which they intended to sell. Further, the former head of the Russian Security Council, General Aleksandr Lebed, has warned that of 132 atomic demolition munitions, eighty-four of these weapons are unaccounted for.⁹ These atomic weapons are often referred to as "suitcase bombs" as they are transportable by a single person and were designed for special operations military forces behind enemy lines. The bomb weighs approximately thirty kilograms and produces a two-kiloton explosion. The abject poverty of nuclear security in modern Russia, combined with the attractiveness of this weapon for terrorist use, makes the

threat of a nuclear detonation on American soil a distinct possibility of extremely high consequence.

The use of chemicals is another method of WMD attack. Chemical weapons have been acquired into the terrorist arsenal. The most recent use of chemical weapons was the Aum Shinrykio incident in Tokyo. Chemical weapons consist of a chemical substance and their destruction of human tissue is dependent on toxicity and direct contact. Chemical weapons can be delivered in liquid, solid, or gaseous form. Most chemicals used to make weapons are readily available on the industrial market - chlorine was used in trench warfare of World War II and is widely available throughout the United States. Chemical weapons can be silently disseminated through a wide variety of methods and the production of chemical weapons is relatively easy to hide.

The utilization of biological weapons, by terrorists, could prove to be the most insidious method of WMD. Biological weapons have attracted the interest of potential domestic terrorists within the United States. In 1995, a former member of a neo-Nazi group purchased vials of the bacterium that causes bubonic plague from the same American business that sold biological agents to Iraq.¹⁰ Biological agents (designed for warfare) are living organisms, which create poisonous toxins that destroy life. The Aum Shinrykio cult experimented with the Ebola virus as a possible biological weapon. The Ebola virus kills ninety-percent of its victims.¹¹ Unfortunately, some biological agents that can be utilized to make a weapon may also be cultured in a fairly unsophisticated laboratory - anthrax can be extracted from the soil.

Recent developments have greatly increased the risk that modern day terrorists may very well use weapons of mass destruction. The use of a WMD greatly increases the shock value of the attack through the simple fact that these are true weapons of terror, which strike victims at random. The senseless pattern of destruction escalates the value of a WMD to a terrorist. The death toll does not have to be high in a WMD attack, as a great deal of the fear comes from the effects of the weapon itself. A WMD incident, within a heavily populated area, has the potential of being an event of devastating consequence.

During a recent executive session held at Harvard University on domestic preparedness, the clear majority of participants proclaimed that their agency, or response entity, was unprepared to deal with acts of chemical, biological or nuclear terrorism. Time after time, tabletop exercises and emergency response drills conclude that first responders, firefighters, police, and emergency medical responders become some of the first victims. The Federal Emergency Management Agency (FEMA) has determined that most communities are not prepared to respond effectively to a WMD incident. This startling revelation indicates that the use of a WMD could achieve the desired outcome in the mind of the terrorist¹².

As a summation of this chapter the question is revisited - What is the threat to national security? This question can be answered through the examination of four factors:

1. Strategically terrorism may be one of the few viable methodologies of warfare available to counter American military domination on the conventional battlefield.
2. The United States has a history of terrorism that has consisted of both state and non-state actors. It has occurred in our past and thus may occur in our future.

3. Statistical evidence indicates that terrorism on American soil is a low probability event.
4. Terrorists can, and have, acquired and utilized WMD. Use of a WMD may equate to a high consequence incident.

The combination of these four factors indicates that terrorism is a potential threat to national security.

Through this chapter analysis we may conclude that the first criterion of strategic criteria for engagement does correspond, and thus this criterion for the international engagement model may work for domestic engagement. We arrive at this conclusion through the determination that terrorism is a threat (low probability - high consequence) to the national security of the United States. Therefore, the first component of the strategic criteria framework may be applicable in committing military forces in response to a WMD incident.

Chapter 3 Does America Support Engaging This Threat?

"The American people need not fear our preparations. The greater threat to our civil liberties stems from the aftermath of an attack for which we had failed to prepare."¹³

The second criterion asks the question, do Americans support engaging the military in response to a domestic terrorist incident? We must have support of the American people and their elected representatives in Congress. This chapter outlines the existing legal framework for employing the military in support of response to a terrorist incident. The chapter also examines public opinion regarding tolerance for use of the military in this capacity, and the dangers posed by the use of the military regarding loss of civil liberties. At the heart of our constitution and our system of governance is civilian control of local affairs, with no involvement by the military in civilian affairs. We have a history of using the military in various scenarios ranging from assistance after natural disasters to support of local law enforcement to quell insurgency, but this has not been accomplished without public scrutiny about the constitutionality of such participation. Finally, the chapter closes with an examination of what the proper military role in a response of this type should be, so we do not compromise the freedoms of the United States.

The World Trade Center Bombing in New York in 1993, and the 1995 bombing of the Federal Building in Oklahoma City are two incidents that rocked the assumption by United States citizens that terrorism was something that took place outside our national borders. In both these instances, local authorities did a remarkable job of stabilizing the situation and returning

order to their respective cities. However, both of these incidents prompted action by Congress and the President to improve our ability to prevent further incidents and improve our ability to respond should prevention measures fail. More importantly, there is an understanding that had the World Trade Center bombing been of the magnitude that was intended, the required response force would have gone well beyond the capabilities of local responders.

The military has functioned in a domestic support role on several occasions in the past, but never on a scale that would be necessary in response to a weapon of mass destruction incident that quickly overwhelms local and state responders. The military has provided support to local law enforcement agencies in the war against drugs. They have assisted in disaster relief operations such as hurricanes and floods. The military was even directed to assist during the Los Angeles riots, which followed the verdict in the Rodney King trial. However, the United States has not experienced the magnitude and scope of a response that would be required in the event of a large-scale terrorist incident.

Legal Framework

The Posse Comitatus Act of 1878 prohibits willful use of any part of the Army or Air Force to execute the law unless expressly authorized by the Constitution or an act of Congress. The language of the act mentions only the Army and the Air Force, but it is applicable to the Navy and Marines through administrative action and commands of other laws. The act has also been applied to the National Guard when it has been federalized. The law enforcement functions of the Coast Guard have been expressly authorized by act of Congress and allow for the Coast

Guard to function as a domestic law enforcement agency. The express statutory exceptions include the legislation that allows the President to use military force to suppress insurrection.¹⁴

The insurrection statutes enable United States troops to enforce laws when there is an insurrection against state government, when there are unlawful obstructions, or assemblages that prevent enforcement of federal law, or when domestic violence interferes with individual civil rights. The statutes provide broad language and troops must be used only for purposes set out in the Executive Order that directs federal troops to respond. An important point is that under Sections 332, and 333, a Governor's request is not necessary to begin the decision chain to employ federal troops, and the insurrection statutes hold no statutory restrictions on use of force.

The insurrection statutes are a recognized exception to Posse Comitatus, but, generally speaking, these statutes will not be implemented unless state and local forces cannot adequately respond. The 1992 Los Angeles riots provide a recent example of use of this exception to the Posse Comitatus Act. "The Los Angeles riots were the most destructive civil disturbance in U S history, causing the deaths of at least 54 people and more than \$800 million in property damage throughout Los Angeles County."¹⁵ A Presidential Executive Order provided the military with authority to restore law and order. More than 10,000 troops from the California National Guard, 2,000 active component soldiers, and 1,500 Marines were deployed to the area at the height of operations. The National Guard first responded in their state capacity working for the governor of California, but they were then federalized to operate as part of the Federal military response when it was necessary for California to seek assistance once the riots were beyond the state's ability to control the situation.

The most intriguing aspect to this case was that the military officer-in-charge at the scene thought he was limited in his ability to exercise use of force and did not respond to requests for assistance that would have been legal under the allowable exception to Posse Comitatus. As detailed in the Webster Report, former Director of the Federal Bureau of Investigation Judge William Webster wrote: "It required each request for assistance to be subjected to a nebulous test to determine whether the requested assignment constituted a law enforcement or a military function. As a result, after the Federalization on May 1...not only were the federal troops rendered largely unavailable for most assignments requested by the LAPD, but the National Guard, under Federal Command, was made subject to the same restrictions, and therefore had to refuse many post-federalization requests for help."¹⁶ The JTF Commander's explanation was that his interpretation of the military mission did not include a requirement to *maintain* law and order. The police, the public, and the media, however, expected the military to keep the peace rather than not engage at all, and neither Posse Comitatus, the insurrection statutes, nor the Executive Order precluded the federal military forces from restoring, as well as, maintaining order.

A WMD incident that quickly overwhelms local responders will have the same public expectation for the military to provide solutions and response to the subsequent havoc that would be wreaked on the area. In a speech to the National Security Telecommunications Advisory Committee in September 1998, Deputy Defense Secretary Hamre insisted that responding to such incidents "is going to require the mobilization of capacities that are just unprecedented, and we have not done any real concrete thinking about that in the Department of Defense."¹⁷ As a

counterpoint, James Lee Witt, Director, of the Federal Emergency Management Agency (FEMA), whose agency has primary responsibility for "consequence management" after a domestic terrorist attack, says he "philosophically" disagrees that the military should be the institution with such responsibility.¹⁸ Somewhere in between lies the ground on which the US military will have to function. The military will have to be called in when local and state responders are beyond the scope of their capabilities. The legal authority exists for such a response, but do Americans support the actions, and do these actions pose a threat to society?

Although the statutory authority exists to use military forces in the event of a domestic WMD incident, there are still challenges to operationalizing military participation. When we ask some of our military leaders, they will respond that training for domestic operations is very different from the basic skills used to fight and win our nation's wars. A simple example of this was an incident that occurred during the LA riots. When a police officer asked the Marines to assist him in responding to a domestic dispute, it was obvious that terminology used by the two agencies was different. The police officer asked the Marines to "cover" him during his approach to the house. The Marines responded with a heavy base of fire whereby the police officer responded that he had not meant to have the Marines "shoot" when he requested cover, but merely to be prepared to shoot if necessary.¹⁹ While the legal framework places the military at the scene in the wake of a WMD incident, clarity regarding the rules of engagement and training for the correct response are necessary to ensure proper execution of the mission.

There is a great deal of discussion and debate concerning the military role in consequence management as the United States faces the issue of terrorism and weapons of mass destruction.

The challenge of identifying and enabling the military to provide the proper support needed by local authorities during a terrorist crisis brings a whole new set of concerns and challenges. The military can provide support under the insurrection statutes when operating in a law enforcement capacity to quell civil disturbance and restore law and order. In this function, the military would be supporting the Department of Justice in crisis response. They can also be providing support to the Federal Emergency Management Agency (FEMA) for disaster response in the aftermath of the incident. In either role, the American people will be evaluating the actions of the military. While support to FEMA in the recent past with hurricanes and floods was widely supported, the support in a law enforcement role to quell civil disturbance is a more contentious issue. The military must be ready to support civil authorities under the Federal Response Plan, concurrently with following the civil disturbance plan titled *Garden Plot*. Civilian leadership must understand how each of these plans should be integrated into response. This area is rife for challenges in the proper execution of duties by the military, and understanding among civilian authorities with regard to the proper military role.

Another element of concern besides use of the military in consequence management, is the actual compromise of civil liberties that might be a consequence of a catastrophic terrorist incident. Philip Heymann provides suggestions, in his recent work Terrorism and America. A Commonsense Strategy for a Democratic Society, for how Americans can minimize the impact of terrorism to our way of life. "One of the great dangers of terrorism is that it may lead... to self-destructive actions. We must learn never to react to the limited violence of small groups by launching a crusade in which we destroy our unity as a nation or our trust in the fairness and restraint of the institutions of U. S. government that control legitimate force."²⁰ This call for

limited violence and restraint is a necessary mode of operation for the military to be able to respond in a manner that the American people will readily accept.

There are laws, statutes, and precedent that would support use of the military in response to a WMD incident, but the scope of such a response would surely test the constitutional boundaries of the insurrection statutes, which are designed to enable the U. S. to respond. The use of the military on a scale required for such a response puts the government on a slippery slope that could very quickly take it from intervention to intrusion, and the perceived and real threat to civil liberties. The military must be able to balance the necessary response to accomplish the mission while doing its best to maintain the people's trust that what is necessary does not pose a threat to the American way of life.

Public Opinion

Presently, the American public holds the military in high esteem. In Harris public opinion polls, the U. S. military went from 5th in 1971 to number 1 throughout the 1990's in institutions inspiring a "great deal of confidence."²¹

Table 1

Harris Poll Ranking of Institutions Inspiring a "Great Deal of Confidence"

	1971		1998
Medicine	61 %	Military	43 %
Universities	46	Supreme Court	40
Organized Religion	27	Medicine	36
Major Companies	27	Universities	35
Military	27 %	Organized Religion	24
Supreme Court	23	Television News	22
Executive Branch	23	Major Companies	21
Television News	22	Wall Street	19
Law Firms	20	The White House	18
Wall Street	19	Executive Branch	16
Congress	19	Press	14
The White House	18	Organized Labor	11
The Press	18	Congress	11
Organized Labor	14	Law Firms	10

Source: Seymour Martin Lipset & William Schneider, The Confidence Gap: Business, Labor, and Government in the Public Mind, New York: Free Press, 1983, page 383.

This position of trust is one that the U. S. military holds very dear. Words like “honor,” “trust,” “devotion to duty” are core principles under which the military culture operates. However, the memory of anti-war sentiment and negative public opinion directed at military members who followed orders during Vietnam remains in the minds of Americans today. Although largely supported by the American people, the decision to intern U.S. citizens of Japanese, German, and Italian descent after the bombing of Pearl Harbor gave the military a controversial role on the domestic front that was defined as in the interest of national security. With the diverse society that we have today, any type of role that the military might be envisioned as supporting would possibly test the American people’s loyalty to their military services. The threat of a domestic WMD incident, and the havoc that would be wreaked by such an event, poses a threat to all agencies called upon to respond, especially the military. The fragile relationship with the American people might be at risk based on actions and perceptions of what the military’s role is in the response.

Citizens are rightfully reluctant to sacrifice civil liberties. As Americans have considered terrorism and threats of terrorism on U. S. soil, the public opinion surveys (see Appendix A) do not show a marked willingness to sacrifice civil liberties in order to combat terrorism. Survey results showed a modest rise in support for surveillance of citizens, while another question found just the opposite. The public did not think it was necessary to give up some civil liberties to prevent terrorism.²² These percentages show that the issues are fraught with challenges.

Dr. Laura Donohue, a research fellow at Harvard University has done extensive analysis of the impact of laws and temporary measures used by Great Britain to manage the situation in

Northern Ireland.²³ Her caution is that the government can provide temporary measures to allow increased surveillance or expanded search and seizure protocol in response to a terrorist incident, but temporary measures tend to become permanent when over utilized by government entities. This over use results in an erosion of civil liberties which actually feeds an increase in anti-government sentiment, and shifts support away from law enforcement and into the hands of the terrorist. Were the military employed in some of these temporary law enforcement actions in the wake of a WMD incident, we could be the target of criticism by the American people and the fragile trust we have earned could quickly be degraded.

Civil Liberty Concerns and the Dilemma of Military Involvement

The legal framework exists for the military to support response to a WMD incident. The military presently holds a position of trust with the American people. Public opinion is something that can easily change, however. The public is maintaining a watchful eye with regard to a violation of civil liberties by the U.S. military. The Posse Comitatus Act, which is designed to maintain civilian control of the military and keep the military out of a domestic law enforcement role, is "a criminal statute under which there has never been a prosecution."²⁴ The incident at Waco has been cited by some as a clear violation of the act, and it remains to be seen whether or not there will be any sort of prosecution. As one Washington Times correspondent wrote, "The tragedy at Waco by no means is the first or only example of violations of Posse Comitatus, but it does underscore the volatile cocktail that can result from mixing special-operations troops and civilian law enforcement. Separation of civilian and military forces has long been an American tradition. But under the guise of the "war on drugs" and the "war on

terrorism,” Congress in the last two decades has enacted piecemeal legislation allowing military intervention in civilian law enforcement, which many believe violates the intent, if not the letter, of the law.”²⁵ The civilian sector is not equipped to handle a catastrophic incident on its own. The military must be ready to respond in a way that maintains the intent of the law and provides for necessary law and order. The military will be placed in a situation where they are protecting American citizens from each other, and possibly from foreign enemies infringing on our soil. This infrequently exercised role will have to be polished to ensure the military is ready for what they are called in to do.

The Search for a Proper Role

A WMD terrorist event is likely to demand resources beyond what is presently available to cities, counties, and states. What resources will be needed, what agencies provide them, and how the resources are integrated into the response structure is what is being extensively examined today. Agencies tasked with the mission to respond are attempting to identify what role they can and will play, and what resources they have available.

With the military only providing support if needed by the state, the states with experience responding to natural disasters such as earthquakes and hurricanes, might be more ready and prepared to quickly identify what is needed from outside. They will also be more prepared to integrate the outside assistance into their response structure. The goal should be to educate civilian leadership in all states about the role the military can play, and how they can be integrated into the response structure.

The military would assume the same role they have throughout the history of this country in the area of disaster relief, or law enforcement to quell civil disturbance. The military role is to provide support to civil authorities if that support is needed. People did not grow concerned when observing military vehicles and personnel during hurricane relief or during flood relief efforts. However, the L.A. Riots and Waco are small-scale reminders, of how challenging a response to a domestic terrorist incident could be. The military's role in the response will be scrutinized. The key to military success in this mission is a clear understanding of what the mission is, and how to best accomplish the task. Whether it be domestic law enforcement or logistics support, the military must be trained and ready to operate in the U.S. domestic theater.

Applying the framework allows an examination of existing legislation, and public opinion polls to conclude that the American people accept domestic engagement of the military in the wake of a WMD incident. The people's representatives enacted laws and statutes. Public opinion polls demonstrate that the military holds a place of trust with the American people, and that the American people are willing to tolerate minor and temporary compromises in civil liberties if these compromises are necessary to deter terrorism.

Chapter 4 Do We Have the Right Force?

Weinberger's third criterion for engagement is to have the right force to accomplish the mission. To examine if we have the right force we will describe the mix of plans, processes, programs and force available; define the required force, and compare the current with the required to identify gaps. We use consequence management responsibilities to frame the "right force" measurement criteria. The first step is to review the current response environment.

The Current Response Environment

A depiction of the departments and agencies that have programs addressing antiterrorism or counter-terrorism can be found in Appendix B. Reference to the appendix is suggested as we briefly discuss a few of the plans, major agencies, and departments involved in the consequence management process.

Federal Response Plan²⁶:

Local and state responders manage most disasters and emergencies. The federal government is called upon to provide supplemental assistance when the consequences of a disaster exceed local and state capabilities. If needed, the federal government can mobilize an array of resources to support state and local efforts, to include, various emergency teams, support personnel, specialized equipment, operating facilities, assistance programs, and access to private-sector resources constitute the overall federal disaster operations system. The Federal Response Plan

(FRP) describes the major components of the federal response system, provides a structure for coordinating federal response and recovery actions to address state-identified requirements and priorities.

The FRP employs a multi-agency operational structure that uses the principles of the Incident Command System (ICS) based on a model adopted by the fire and rescue community. ICS can be used in any size or type of disaster to control response personnel, facilities, and equipment. ICS principles include use of common terminology, modular organization, integrated communications, unified command structure, action planning, manageable span-of-control, pre-designated facilities, and comprehensive resource management. The basic functional modules of ICS (e.g., operations, logistics) can be expanded or contracted to meet requirements as an event progresses.

The FRP can be partially or fully implemented, in anticipation of a significant event or in response to an actual event. Selective implementation through the activation of one or more of the system's components allows maximum flexibility in meeting the unique operational requirements of the situation and interacting with differing state systems and capabilities.

An incident involving hazardous substances, weapons of mass destruction, or other lethal agents or materials may require a response under another federal emergency operations plan (National Contingency Plan, Federal Radiological Emergency Response Plan (FRERP), etc.). These plans delineate measures necessary to handle or contain released materials and keep the public properly informed and protected.

Several of these plans designate a Lead Federal Agency (LFA) to coordinate the federal response. For example, DOD could be assisting DOJ/FBI under *Garden Plot* as part of crisis response for civil disturbance, or supporting FEMA under the Federal Response Plan. The type of emergency determines the LFA. In general, an LFA establishes operational structures and procedures to assemble and work with agencies providing direct support to the LFA in order to obtain an initial assessment of the situation, develop an action plan, and monitor and update operational priorities. The LFA ensures that each agency exercises its concurrent and distinct authorities and supports the LFA in carrying out relevant policy. Specific responsibilities of an LFA vary according to the agency's unique statutory authorities.

If the incident also involves concurrent implementation of the FRP, the LFA and FEMA coordinate to the maximum extent practical to ensure effective, unified federal actions, consistent with their distinct authorities and responsibilities. Direct FEMA support to an LFA is limited to FEMA's own authorities, resources, and expertise as an individual agency.

In a response to an emergency involving a radiological hazard, the LFA under the FRERP is responsible for federal oversight of activities on site and federal assistance to conduct radiological monitoring and assessment and develop protective action recommendations. When a radiological emergency warrants action under the Stafford Act, FEMA uses the FRP to coordinate the nonradiological response to consequences off site in support of the affected state and local governments. If the FRERP and FRP are implemented concurrently, the Federal On-Scene Commander under the FRERP coordinates the FRERP response with the Federal

Coordinating Officer (FCO), who is responsible for coordination of all federal support to state and local governments.

Federal Emergency Management Agency:

Under the Stafford Act, FEMA serves as the primary coordinating agency for disaster response and recovery activities. To carry out this interagency role, FEMA executes a wide range of administrative, programmatic, and specialized tasks. Initial tasks include notification, activation, mobilization, deployment, staffing, and facility setup. FEMA processes the governor's request for disaster assistance, coordinates federal operations under a disaster declaration, and appoints an FCO for each declared state. In continuing operations, FEMA provides support for logistics management; communications and information technology; financial management; community relations, congressional affairs, public information, and other outreach; and information collection, analysis, and dissemination.

The National Domestic Preparedness Office (NDPO)²⁷:

The National Domestic Preparedness Office (NDPO) was formed to coordinate all federal efforts, including those of the Department of Defense, Federal Emergency Management Agency, Department of Health and Human Services, Department of Energy, and the Environmental Protection Agency. It was also designed to assist state and local first responders with planning, training, equipment, and exercise necessary to respond to a conventional or non-conventional weapon of mass destruction (WMD) incident.

The Department of Justice, through the FBI, will coordinate the domestic preparedness programs and activities of this nation to ensure that a robust crisis and consequence management infrastructure is established to address the threat posed by terrorist use of weapons of mass destruction. The NDPO serves as a single program and policy office for WMD. It will ensure that federal efforts are in harmony and represent the most effective and cost-efficient support to the state and local first responder community.

The Office of Justice Programs' (OJP) Office for State and Local Domestic Preparedness (OSLDPS) ²⁸:

The Attorney General (AG) designated the Office of Justice Programs (OJP) to administer Department of Justice's (DOJ) new state and local domestic preparedness programs. OJP established the Office for State and Local Domestic Preparedness Support (OSLDPS). The OSLDPS charter is to develop and implement a national program to enhance the capacity of state and local agencies to respond to WMD terrorist incidents through coordinated training, equipment acquisition, technical assistance, and support for state and local exercise planning.

Bioterrorism Preparedness and Response Program - National Center for Infectious Diseases Centers for Disease Control and Prevention (CDC):

The Department of Health and Human Services designated the CDC to coordinate and lead the overall planning effort for upgrading national public health capabilities, and responding to biological and chemical terrorism. The basic components of the program are detection of unusual events (surveillance); rapid investigation and containment of real or potential threats

(epidemiology); rapid laboratory diagnosis; coordination and communication; and practice exercises and program evaluation.

Priority activities for the CDC bioterrorism initiative are creation of a CDC bioterrorism preparedness and response activity; development of a CDC strategic plan for bioterrorism preparedness and response; facilitation of state-level bioterrorism preparedness and response planning; creation of a national health alert network and an enhanced state and local capacity to diagnose biological threat agents; and creation of a national pharmaceutical stockpile.

Military Support²⁹:

DOD maintains significant resources (personnel, equipment, and supplies) that may be available to support the federal response to a major disaster or emergency. DOD will normally provide support only when other resources are unavailable; and only if such support does not interfere with its primary mission or ability to respond to operational contingencies.

Secretary of Defense Cohen helped to better define responsibilities within DOD concerning the department's support to the LFA in the area of consequence management responsibilities for those incidents involving Chemical, Biological, Radiological, Nuclear and High Yield Explosives (CBRNE-CM). The memorandum states, "...CBRNE-CM support incorporates the consequence management activities for all deliberate and inadvertent releases of chemical, biological, radiological, nuclear, and high yield explosives."³⁰

The decision specifically states, "The Assistant to the Secretary of Defense for Civil Support (ATSD (CS)) will exercise policy oversight for all domestic CBRNE-CM support. The responsibilities of the ATSD (CS) include policy promulgation, preparedness for the CBRNE-CM domestic support missions, policy oversight of operations and coordination of LFA requests for CBRNE-CM support. ...neither the Under Secretary of Defense for Policy nor the Secretary of the Army, under his executive agency for military support to civil authorities (MCSA), has responsibility for domestic CBRNE-CM." Memoranda such as this will continue to clear the "fog of war" surrounding our efforts to prepare a coordinated response to a WMD incident.

Upon execution of the Federal Response Plan (FRP), requests for military resources must be accompanied by a Request for Federal Assistance (RFA) form, unless the DOD component is responding under its independent funding authority or the commander's immediate response authority as defined in the DOD Manual for Civil Emergencies (DOD 3025.1M).

DOD recognized the immense responsibility and the need to focus the military's capabilities in response to a WMD incident. October 1999 saw the U.S. Atlantic Command renamed as U.S. Joint Forces Command and that command subsequently created Joint Task Force - Civil Support (JTF-CS) which will "mature into the primary command and control for Weapons of Mass Destruction Consequence Management (CoM)"³¹ for DOD. JTF-CS has assumed the responsibilities for planning and execution of Military Assistance to Civilian Authorities for consequence management of WMD incidents within the U.S., its territories and possessions. JTF-CS will exercise its responsibilities through the Response Task Force (RTF) structure. The

RTFs will be integrated into JTF-CS for planning and execution of consequence management missions.

The RTF will consolidate and manage supporting operational military activities. The RTF is a temporary, multi-service organization created to provide a consequence management response to a man-made disaster or emergency. The RTF responds to events involving the use, or possible use, of chemical, biological, and/or highly explosive agents/materials. The RTF commander exercises operational control of all allocated DOD assets (except the U.S. Army Corps of Engineers personnel executing public works and engineering missions and the Joint Special Operations Task Force); provides personnel, equipment, and supplies to the affected area; and provides disaster response support based on mission assignments received through the DCO. Either commander may supplant the DCO as the senior DOD representative

The Secretary of the Army, as the Executive Agent to the Secretary of Defense for military support to the civil authority, has established a Consequence Management Program Integration Office, under the Director of Military Support, to execute the program to integrate Reserve and National Guard support to the civil authority in managing the consequences of WMD terrorism.

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Commencing in FY99, the program trains, organizes, and equips dedicated and mission task organized forces, geographically dispersed across the United States for WMD terrorism response. Units to be enhanced are 54 Military Support Detachments, 127 Domestic Response Casualty Decontamination elements, 43 NBC Reconnaissance elements, and 130 detachment

sized elements to provide medical, communications, transportation, logistics, information, security, and engineering support.

In January 1999, the retooling of DOD's response forces was initiated with Defense Reform Initiative Directive #25's intensive effort to train, organize, and equip dedicated and mission task organized forces for WMD response. Dedicated response forces consist of the WMD Civil Support Teams (WMD-CST) whose mission is to rapidly deploy to a suspect area, assess the type of chemical, biological, radiological, or nuclear (CBRN) contamination which may be present, advise the civil authority on how to manage the effects, and facilitate state and federal military response. In 1999, the Consequence Management Program Integration Office trained, organized, and equipped ten full-time CSTs. In 2000, the office will establish 17 more CSTs.

Additionally, some 300 existing units in the Army and Air Force Reserve, and the Army and Air National Guard are being enhanced to form the other elements of JTF-CS. When completed, this Joint Force supports the civil authority with chemical, medical, engineering, transportation, civil affairs, combat service, military police, signal, mortuary affairs, and information operations/public affairs units capable of operating in and near a contaminated area.

The Domestic Preparedness initiative³³ was formed under FY 1997 Defense Authorization Bill Public Law 104-210, September 23, 1996 commonly called the Nunn-Lugar-Domenici legislation. The bill provides funding for the DOD to enhance the capability of federal, state and local emergency responders in incidents involving nuclear, biological and chemical terrorism.

The U.S. Army Soldier and Biological Chemical Command, Aberdeen Proving Ground, Maryland, the center for DOD's chemical and biological expertise, is the lead DOD agency charged with enhancing existing metropolitan response capabilities to include NBC incidents. The command developed an NBC training and exercise program to enhance the response capability. The training program was developed as a "train-the-trainer" program targeting the most populated 120 cities in the United States in order to get the information to the nation's emergency responders as quickly as possible. The courses supply emergency responders with the knowledge and experience needed to conduct their own training with specialized nuclear, chemical and biological training materials. Training the cities allows local personnel to train their own responders. The train-the-trainer concept also allows each city to decide which of their personnel would be trained as WMD trainers and how the incorporation of this program would be accomplished into their city specific training needs and requirements. The Domestic Preparedness Team has trained approximately 77 cities and more than 15,000 trainers since its inception. DOD will transition this function to the Department of Justice on October 1, 2000.

Required Response Force

A Rapid Reaction Force:

The key tenet for the required force is to be in the right place at the right time with the right equipment and the right training. This leads us to imagine a large emergency response force similar to the 82d Airborne's Division's Rapid Deployment Force battalion ready to be anywhere in the world in 18 hours or less. In the consequence management arena, 18 hours is too long for

first responders but may be acceptable for DOD assets in the support role for which they are training. How can we meet this requirement with the current force and structures?

Active Military Force:

Our nation's active military forces are the best-prepared forces today to support civilian authorities in the aftermath of a WMD incident. The definition "best-prepared" recognizes available training time and funding but not necessarily training in the consequence management mission. Although some organizations like the Marines' Chemical Biological Incident Response Force, the Army's Technical Escort Unit or the DOD Joint National Response's Chemical Biological Rapid Response Team (CB/RRT) and the National Guard's WMD-CSTs stand ready to perform this mission, most military units are trained to deter aggression and fight and win our nation's wars, not support local and state responders in a consequence management role. More emphasis needs to be placed on adding a requirement for the designation of forces to train in the consequence management mission, and exercise this skill on a regular basis with JTF-CS and various lead federal agencies.

The National Guard and Reserves:

As outlined previously, over 300 National Guard and Reserve units of all services are preparing to support the Lead Federal Agency designated to mitigate the effects of a WMD incident. The National Guard and Reserve have the distinct advantage of being "citizen soldiers" spread throughout the country with basic capabilities and equipment that can be marshaled on short notice to support local civilian authorities that have initially responded to a WMD incident. Many members of these units are law enforcement officers, doctors, nurses and firefighters.

More importantly, all of these units are trained to operate in a hazardous chemical environment and some of them are specifically trained for decontamination and treatment of casualties.

The key measurement for the utility of the reserve components is time. How soon will they be needed versus how soon can they arrive is the fundamental question. The National Guard initially responding to a domestic disaster in their Title 32 State Active Duty status may mitigate some of the concern about timely response. Another option is reserves responding through Title 10 employment tied to an annual training mission or, in narrow circumstances, by exercising "immediate response" criteria. Additionally, the ten National Guard WMD-CSTs mentioned earlier are now activated and prepared to perform their mission with 17 more due to be formed this year. The significance of the WMD-CST teams is the fact that they are in a full time Title 32 status, under the control of the governor, with a primary mission of domestic WMD response.

The challenge for the National Guard and Reserve is to maintain proficiency in their basic wartime mission and to assume support missions to civilian authorities in the aftermath of a WMD incident. This "citizen soldier" force will need to be more closely integrated into WMD training exercises at the local, state and federal level to insure their readiness to support the consequence management mission. Additional funding and additional training time will be required to insure this force is ready and properly trained in the consequence management role.

State and Local Responders:

Many local responders are linked together into a civilian task force made up of law enforcement, fire, emergency medical services, public health, HAZMAT, emergency

management, and other emergency responders who are called together to respond to incidents in a predefined region. The challenge here is that this force, in all probability, will not be sufficient to support the requirements of a catastrophic WMD incident.

It is imperative that state and local responders continue the training provided by the Domestic Preparedness Program. Additional focus must be given to interagency exercises to insure that federal support is played in detail and exercise participants include key members of JTF-CS and selected military planners. DOD's support must be planned and fully played in all exercise scenarios from pre-incident through disengagement of federal support.

Does the Right Force Criterion Apply?

The "right force" criterion applies in the analysis of forces required and forces available to the U.S. government to mitigate the effects of a WMD incident. By defining a mission, we define the force required for the mission and apply that objective criterion across all forces available to include federal, state, local and DOD. The need to develop highly mobile, well-equipped, well-trained interagency teams ready to surge at a moments notice, anywhere in the U.S., to mitigate the effects of a WMD incident is evident. The personnel and equipment required to support the mission exist within the framework of local, state, and federal resources

A gap exists in the ability of our nation to dedicate resources specifically to this mission. It is fiscally infeasible to maintain standing forces, whether they are civilian or federal, to handle crisis response and consequence management of a WMD incident as their only function. The

tools to minimize this gap are in place in the form of legislation that directs the preparation of numerous organizations chartered to train and integrate the resources. The more we can streamline authority, the more effective we will be in our consequence management response efforts.

The gap can be narrowed significantly by the continued emphasis of a trained and ready federal, state, and local government. Realistic training to include field exercises and simulations is paramount to the success of the mission. Exercises must be robust in scenario-play and mandatory for all participating agencies including DOD and its subordinate elements including JTF-CS and the RTFs.

To narrow the gap between the required force and the available force we must have interagency teams who have trained together, funded with like equipment, and have access to rapidly deployable platforms. This should be our frontline response force for WMD incidents. It is also possible to have pre-positioned equipment, to include sensors like those provided for chemical detection, and stockpiles of pharmaceuticals, like those planned for by Department of Health and Human Services, that responders can access to begin saving lives in those precious hours after the occurrence of an incident.

Chapter 5 When and How Do We Disengage?

Disengagement Issues

Weinberger's final criteria for engagement is to have a clear exit (disengagement) plan. The huge variation in potential terrorist events precludes detailed disengagement planning prior to an event. However, uncertainty does not remove the need for a generic plan that defines: (1) the authority and responsibility for disengagement planning and decisions, (2) the process, structure and purpose for disengagement planning, and (3) the dimensions, criteria, and standards to consider in disengagement planning and execution.

The goal of this chapter is to answer the question: does the U.S. military's strategic criterion of having an exit plan apply to a domestic WMD incident? This goal will be attained by (1) examining the disengagement context and goal, (2) examining current disengagement strategies, and (3) identifying further disengagement strategy requirements, and (4) evaluating the usefulness of applying the criteria to a domestic incident.

The Disengagement Context

The Definition and Goal of Disengagement:

A simple composite definition that is consistent with Webster³⁴ and Weinberger's intent and fits the domestic context would be: the release and withdrawal from employment of military forces

engaged in WMD consequence management. What do federal agencies, including DOD, disengage (withdraw or release) from? Clearly, DOD would cease participation in the FRP components when the President determines that the FRP has achieved its goal. The FRP's goal is to ensure that the federal government provides "... response, recovery, and mitigation resources...to augment state and local efforts to save lives; protect public health, safety, and property; and aid affected individuals and communities in rebuilding after a disaster."³⁵

Consequence management for a WMD event is only a portion of the response to one form of disaster among the many covered in the plan. The types of federal response assistance is categorized into 12 Emergency Support Functions (ESFs), each with a designated primary agency. To answer the initial question, DOD would disengage from providing one or more of the 12 types ESFs to state and local government when the local situation returns to normal. The state and local situation returns to normal when that state and local governments can perform their functions without unusual federal assistance. Total disengagement would occur when assistance is no longer needed to save lives, protect public health, safety, and property and aid affected individuals and communities in rebuilding after a disaster.

Disengagement, like engagement, is likely to be incremental to allow appropriate assistance to shifting needs among the 12 ESFs. Under the FRP, federal assistance ceases upon a Presidential declaration; however, some degree of disengagement across the 12 ESFs has probably been occurring long before the declaration. It is the need for efficient and effective use of resources during the complex shifting of assistance and incremental disengagement that makes disengagement planning so important.

Why a Disengagement Strategy is Important:

Though timely and effective response to a WMD event must continue to be the first priority for all agencies concerned with consequence management, there are two reasons that disengagement strategies need additional attention. First, it is important for state and local authorities to understand the intent of federal agencies, including DOD, to disengage as soon as possible to maximize local management of their affairs as part of return to normalcy. Early exit helps avoid competition with local private businesses and government agencies. Second, and especially important for the DOD, remaining any longer than absolutely necessary increases the potential for resentment, constitutional issues, civil liberty violations, and negative affects on the military. Potential negative affects on the military are decreased readiness and nonavailability for performing other missions. Equally important, is the potential for creating false expectations, at the state and local levels, about the military's capability to provide long-term support. Those expectations could concern the quality, magnitude, or duration of support. No one, especially citizens in the supported area should be surprised when the military decreases and ends support. It is imperative to make it clear to all parties what support will be provided and when and why it will end.

The Federal Response Context:

The Federal Response Plan³⁶ "...establishes the process and structure for...delivery of federal assistance to address the consequences of any major disaster..." General aspects of the plan are provided in Chapter 4. The plan does not provide a definition of disengagement but its brief discussion of the topic³⁷ fits with the composite definition provided earlier, i.e., release and withdrawal from employment of military forces. The Federal Response Plan (FRP) addresses

only the disengagement of FRP components, those teams and offices responsible for managing the assistance to state and local agencies. Federal agencies, including DOD, may disengage along with FRP components but may continue some operations after FRP disengagement, though their participation in FRP components would cease. Any continued DOD operations would likely be specialized small-scale support to state and local governments under other federal plans. In other words, DOD operations must be under the umbrella of a Federal plan that designates a Lead Federal Agency (LFA), probably FEMA, and a Federal Coordinating Officer (FCO), the senior federal official in charge of support. The FCO has the responsibility for disengaging the supporting federal agencies. After FRP disengagement the follow-on LFA, if any, depends on which other federal plans are invoked. The FCO could remain the same, depending on presidential direction.

The State and Local Context:

State and local agencies may have plans or, at least, expectations about how and when federal agencies will disengage. But after state and local agencies submit their request for federal assistance, their plans do not directly affect Federal agency disengagement; rather, the request should become the initial input into the Federal disengagement plan. State and local authorities would continually provide input to the FCO; to include valuable information needed for disengagement criteria and plans. The FCO is responsible for balancing state and local needs with federal assistance, including that provided by DOD. There exists some level of planning for many of the hundreds of state and local governments that have the potential to be affected by a WMD event. Selection of a few typical exercises held in some of the larger or middle size cities exemplifies expected disengagement strategies. In the Oakland, CA³⁸, chemical event exercise

the participants were asked during the final phase to consider how some aspects of disengagement should occur. The only disengagement plan referenced was the FRP. In the Buffalo, NY³⁹, biological event exercise there was no mention of disengagement or any reference to a plan that might guide disengagement.

Why the apparent absence of reference to or training for disengagement of federal support? First, these exercises are brief, lasting only 8 to 10 hours and primarily concerned with short-term consequence management. There are just too many issues to address in such a short time. The exercises address issues in chronological order of the event scenario and disengagement is not encountered until late in a scenario. In fact, early issues are so complex that disengagement is seldom reached. Second, federal, state and local agencies are primarily concerned, as they should be, with timely and effective response in order to save lives and property. Disengagement is important, but far less so than responding. The general feeling is that once the situation is under control, there will be time to worry about disengagement. Lastly, most state and local agencies see little value in developing plans to disengage federal assets, which they do not control

Current DOD Disengagement Strategies

The FRP is not intended to provide details of disengagement planning for FRP Components. Even less is intended for federal Agencies such as DOD. Since DOD is a "support agency," its disengagement is only partially self-determined. In other words, disengagement is largely dependent on state and local government determinations of needed support and the LFA, under

FCO direction, tasking to DOD to provide that support. The DOD affects the process by assisting the state and local analysis of need and subsequent adjustment to the initial request for federal assistance (RFA) and by internal determination of how to effectively perform assigned tasking.

Office of the Secretary of Defense:

At the highest level of DOD, the Office of the Secretary of Defense (OSD), there is obvious concern with military disengagement. The OSD does not publish a plan for WMD consequence management disengagement but does address some of the disengagement issues in DOD Directive 3025.1.⁴⁰ This directive provides the response structure, agency relationships and transition strategies, and leadership responsibilities. The directive's clarification of these basic elements is the basis for a disengagement plan. Though not a disengagement plan, the directive makes clear that the President's, or his delegated authority's, appointed Federal Coordinating Officer (FCO) has overall responsibility for all operational phases, including disengagement.⁴¹ Similarly, the OSD, or its Executive Agent, in coordination with the Chief of the Joint Chiefs of Staff and the Army's Directorate of Military Support (DOMS), will appoint a Defense Coordinating Officer as part of their requirement to "...direct the required DOD assistance".⁴² The Defense Coordinating Officer, under direction of the FCO, will be responsible for orchestrating disengagement, based on the original and amended requests for Federal assistance (RFA) and the operations success at meeting the requirements of the RFA.⁴³ When the Joint Task Force – Civil Support (JTF-CS) is given command of DOD assets, the Defense Coordinating Officer may be under its operational control, but would still perform the function of implementing disengagement.

Joint Plans:

The Joint Staff has been working on a publication for Domestic Support Operations (Joint Pub 3-07.7) for several years but the recent structural and conceptual changes have outpaced the joint publication cycle. The draft⁴⁴ available in November 1999 provides a "Disengagement." paragraph under the "Planning Considerations" section of Chapter II, Military Support to Civil Authorities. The publication notes that "successful disengagement of disaster response activities and transition from military to civilian control is absolutely critical" and highlights that "...disengagement or transition depends on visualizing an end state, establishing objective criteria, and continually assessing the end state goal."⁴⁵

The Joint Task Force – Civil Support (JTF-CS) Implementation Plan⁴⁶ reiterates that "successful disengagement...and transition to civil authorities is critical to the success of the JTF-CS mission" and that the operation is "sensitive...which requires detailed planning and execution." It also states that the JTF-CS will not remain to conduct recovery operations, defined as long term clean up and relief efforts that are the responsibility of local and state authorities. The plan also recognizes the importance of identifying the "end state" criteria for disengagement, based on agreement with the LFA, USJFCOM, and any CINC they are Operation Controlled (OPCON) to for the operation. All leading parties must agree that local authorities are capable of assuming responsibility for the operation before JTF-CS will re-deploy.

The JTF-CS Commander expressed his belief that disengagement is important but likely to be difficult. He also stated a clear vision of his disengagement strategy: to begin establishing a disengagement strategy as soon as the JTF receives a tasking for civil support. In general, the criteria will be to establish a stabilized environment, to move from crisis to routine responses to requests for assistance. This involves determining that civilian agencies are capable of performing their functions. More specific criteria will be established to fit the event. He noted that "We will look to FEMA to be our advocate for disengagement."⁴⁷

Doctrine writers at the Joint War Fighting Center are developing a WMD Support Commanders' Handbook.⁴⁸ As of January 2000, only an author's draft was available. The author's draft contained a paragraph in the Introduction titled "Phase III - - Disengagement" where DOD forces commence a phased redeployment and ends when all forces have returned to home station. In the Planning chapter, the section on "Termination" reinforces the JTF-CS Implementation Plan concept that "DOD will not remain to conduct recovery operations" and that their forces "...will not disengage from the operation until the local, state, and FEMA authorities feel comfortable that they have the incident under control."

Finally, in the Domestic Operational Law Handbook (DOPLAW)⁴⁹ there is a section within Chapter 2, "Disaster Assistance" that is titled "Terminating Support." Though a document written from a legal perspective, it offers pragmatic planning advice rather than legal guidance. Like other sources, DOPLAW recommends establishing "end states or conditions to mark the completion of disaster assistance missions...(and) understand the desired community objectives or goals." Elaboration on the end states suggests they be "...definable and attainable...developed

from highest (national) perspective to the lowest county and municipal levels...(and) must provide a road map that can be followed..." Perhaps as important, "...the affected population must know when military operations will cease and local support organizations are to continue the mission."

The DOPLAW also recommends that as soon as possible, termination standards be set that are objective, measurable, and understood by all players. The standard may be "...expressed in terms of percentage of pre-disaster capability by specific function; for example, 70 percent of electrical power restored." The standard should ideally represent the threshold, which required assistance in the first place.

Additional Disengagement Strategy Requirements

Are More Disengagement Strategies Needed?:

Generally, the DOD leadership, at OSD, JCS, and DOMS, understands the importance of disengagement and the necessity for developing a strategy. What is needed is formalization of that understanding by revising doctrine. Some of that revision has begun. The OSD is revising relevant directives with scheduled release of March 2000. These directives would not be expected to address disengagement in any detail but should clarify relationships and responsibilities. This clarification will enable those responsible for planning disengagement to proceed with their task.

The JCS is revising Joint Pub 3-07.7 but no estimate of its release is available. The revision has been awaiting clarification of policy, which should be aided by the release of the DOD

Directives. Additional Joint documents from the JTF-CS and Joint War Fighting Center will eventually be published and some of them will likely address disengagement in more detail.

Who needs Additional Disengagement strategies?:

Defense Coordinating Officers for any commitment of DOD personnel should develop disengagement strategies. However, in this paper we have chosen to examine significant WMD consequence management. For such an event the JTF-CS would likely be in command of DOD forces, with the Defense Coordinating Officer subordinate to the JTF Commander. In this case, it is important for the JTF to develop a disengagement strategy, with the Defense Coordinating Officer ensuring the execution of that strategy. In truth, the strategy's success would normally depend on the Federal Coordinating Officer's sponsorship to gain state and local support for the strategy. It is therefore important for the JTF to make their disengagement plan the Federal Coordinating Officer's plan.

What Needs to be done?

Most importantly, the FRP needs to expand its disengagement strategy. Provision should be made to ensure the LFA creates, as early as feasible, a disengagement planning cell with members from the appropriate Federal, State, and local government and non-government agencies that will be involved with the transition of consequence management away from Federal levels. Without the LFA's emphasis, subordinate agencies can do little to affect a successful transition. Guidance to the planning cell should be for establishing measurable criteria and standards for disengagement, monitoring and measuring progress towards meeting the standards, adjusting standards as needed based on changes to the requests for Federal

assistance, and for informing all parties of the standards and timetable for decreasing and ending support.

The DOD should follow the FRP lead by ensuring that it can fully support the disengagement cell with appropriate participation. The DOD must be prepared to lead in establishing criteria/standards for functions where they are the lead agency or play a significant support role. The JTF-CS should be the lead by expanding its implementation plan and by ensuring that the final Joint Pub-3-07.7 has an expanded disengagement strategy.

It is very important to exercise disengagement. Without practicing the process, the state and local leadership is unlikely to trust the disengagement process or to be prepared to support the disengagement-planning cell. Without trusting the process, they are less likely to support the establishment of disengagement criteria/standards and to distrust disengagement schedules. If they have confidence in their own public and private sector's ability to resume of support functions and understand the departure process, they are less likely resist the departure of Federal agencies. Exercising disengagement completes the consequence management process and demonstrates that a community can both respond to a disaster and return to normal functioning.

Does an Exit Criteria Apply?

Does the U.S. Military exit (disengagement) criteria apply to a domestic incident?. Based on the preceding analysis, the answer is clearly yes. The civilian and military leadership in OSD and JCS clearly recognizes the need for a disengagement strategy. The timing and criteria for

disengagement has important implications for return to normalcy for the state and local government and for the military's return to training and readiness normalcy. The planning activity, after an event, prompted by application of an exit strategy will assist the Federal Coordinating Officer, the Defense Coordinating Officer, and state and local government representatives in their efforts to define an end-state and determine the nature and schedule for assistance needed to reach that end-state. Before the event, applying the criteria causes the military to shape its program for assistance, to include the training required for all phases of assistance. Resulting training events could help other federal agencies and state and local officials better understand the complete consequence management process and be prepared to effectively phase out military assistance.

Chapter 6 Criteria for Domestic Engagement

Application of Engagement Criteria

Military support to civilian authorities in the event of a domestic WMD incident is a critical element for effective response, given the resources that exist today among federal, state, and local responders. However, the decision to deploy military forces on domestic soil can be very problematic if not executed for the right reasons and in the right capacity. The criteria for engagement of our armed forces abroad endorsed by Weinberger offers a framework for evaluating military deployment in a domestic response. The research provided in the preceding chapters indicates that Weinberger's strategic criteria for engagement can be, and should be, applied in response to a domestic WMD incident. The findings supporting these elements are summarized as follows:

1) Ensure that the military operation concerns national security. WMD may emerge as a method to attack the United States. At this point in time, it is considered a low probability/high consequence event that would threaten personal security, civil liberties, democratic society and the free market economy. The risk of a domestic WMD is a threat to national security. Thus the criterion applies in responding to consequence management of a domestic WMD.

2) The military operation must have the support of the American people. American citizens expect military forces to respond in a domestic WMD incident. This is evidenced in U. S. laws and statutes directing military support to civilian authorities. The public expectation should

solidify national support for the military in response to consequence management of a domestic WMD and indicates that this engagement criterion does apply.

3) The military must have a strong enough force to accomplish the mission. In response to a WMD, wielded against an American community, the United States Armed Forces may be the only entity capable of providing massive and immediate consequence management support. The application of the “right force” criterion is appropriate as the United States continues to develop resources capable of responding to a WMD incident.

4) Military objectives must provide a clear exit strategy. Disengagement is considered when it is evident that local authorities are ready to resume normal operations, and the situation has stabilized. Military support is no longer necessary and civilian authorities are capable of managing any remaining response conditions. A clear exit strategy that defines a return to normalcy is necessary to ensure military support is not removed too early, or kept on scene longer than necessary. Thus, the criterion for a clear exit strategy applies.

The application of the four key elements have been examined and the findings support the decision, should it be necessary, to deploy the U. S. military in response to a domestic WMD incident. These criteria can be used as a tool in evaluating decisions regarding deployment of forces, but can also be used for planning purposes in anticipation of events. Application of the criteria should be continually updated to reflect lessons learned, changes in capabilities, the status of public opinion, current threat assessments, and what defines a return to normalcy.

Recommendations

The application of each criterion also identified areas that call for additional examination. There is a need to address inconsistencies in threat assessments, and to develop a public education campaign to allow for improved awareness of the military's role in domestic response. Additionally, rapid changes in force structure and doctrine, coupled with new information on emerging threats, require that periodic evaluation be conducted to match force capabilities with requirements, and to review doctrine for disengagement. Resolving each of these issues will better prepare the military for any requirements to provide domestic support.

Additionally, research about consequence management, especially for significant WMD, finds a glaring absence of comprehensive inter-agency exercises. The exercises conducted thus far are too limited in scope and duration to include a large military role. They therefore fail to examine the response force's ability to respond, the ability to disengage, and whether or not the military has the support of the American public. There is a critical need to hold more comprehensive exercises and to evaluate them in terms of the strategic engagement criteria. The new exercise being developed by the Department of Justice, entitled TOPOFF has the potential to be more comprehensive.

Finally, research in this paper applied the strategic engagement criteria to only one aspect of support to civil authorities. An attempt should be made to apply the criteria to other aspects of military support, such as counter drug operations, natural disasters, and less significant WMD events. Such an attempt would define the limits of the criteria's application.

GALLUP Poll:

For each of the following measures – please tell me whether you would support it as a way to reduce terrorist attacks, or whether you think it is going too far...

Increasing surveillance of U. S. citizens by the government.

	4/95	7/96
	(%)	(%)
Support	37	45
Going too far	58	51
Don't know/refused	6	5
N	601	649

In order to curb terrorism in this country, do you think it will be necessary for the average person to give up some civil liberties, or not?

	Los Angeles Times Poll	Princeton Survey Research Associates	Princeton Survey Research Associates
	4/95	3/96	4/97
	(%)	(%)	(%)
Necessary	49	30	29
Not Necessary	43	65	62
Don't Know	8	5	9
N	1,032	1,500	1,206

Appendix A 1

Los Angeles Times Poll:

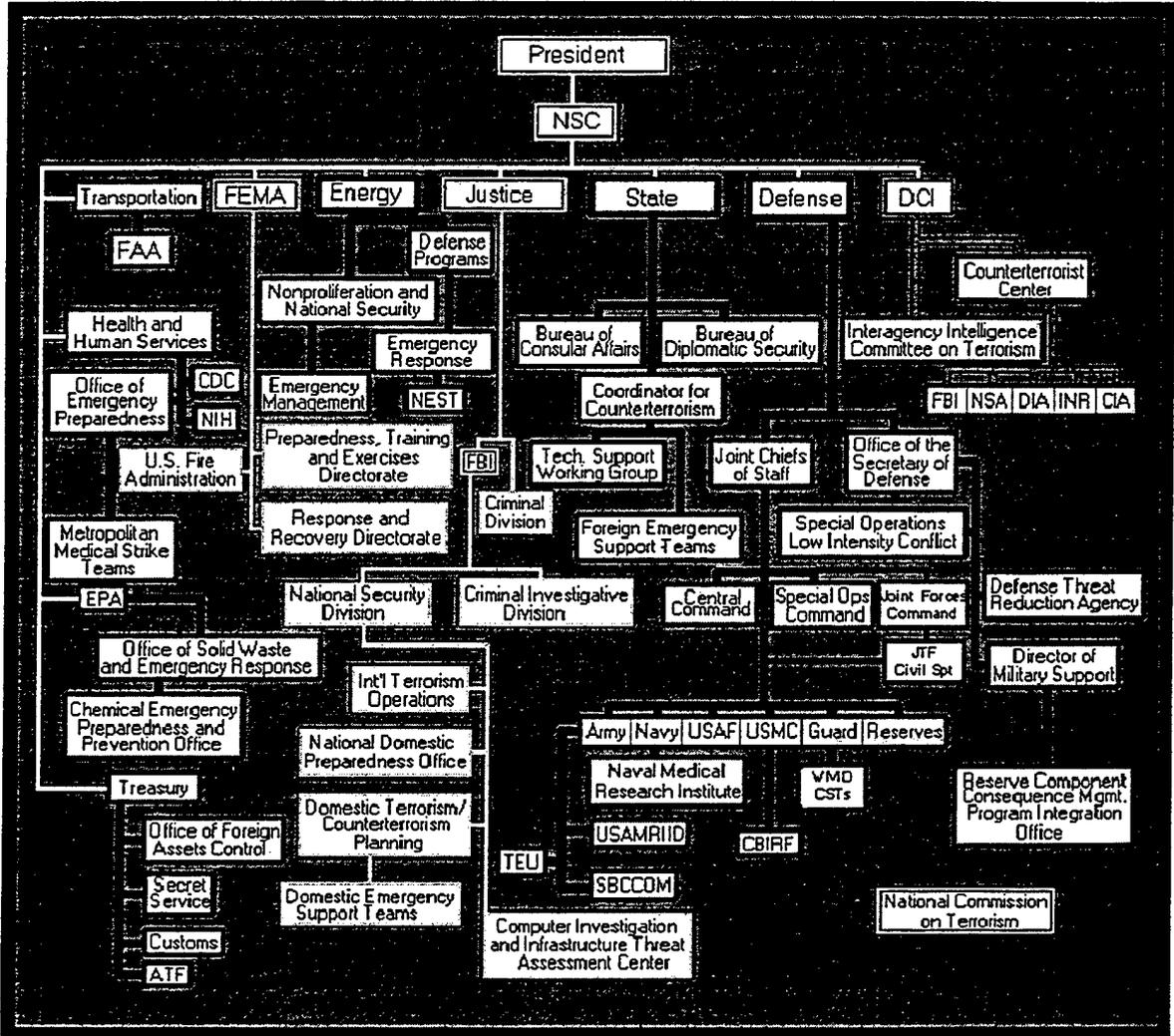
Would you be willing to give up some civil liberties if that were necessary to curb terrorism in this country, or not?

	4/95	8/96
	%	%
Willing	57	58
Not willing	20	23
It depends (volunteered)	17	13
Don't know	6	6
N	1,032	1,572

How concerned are you that new measures enacted to fight terrorism in this country may end up restricting some of your civil liberties?

	4/95	8/96
	%	%
Concerned	70	65
Not concerned	28	33
Don't know	2	3
N	1,032	1,572

Appendix A 2



Appendix B

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