STRATEGY RESEARCH PROJECT

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# MILITARY INVOLVEMENT IN THE WAR ON DRUGS "JUST SAY NO"

BY

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## ABSTRACT

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The "War on Drugs" has become such an issue the United States government felt compelled to employ military forces to fight it. However, the involvement of military forces to combat a civil problem raises many clouded issues. The first and foremost is the legal restraint placed upon the use of military troops involved in civil operations. This issue was specifically addressed in the 1800s to preclude any use of military force but later revised in the 1980s to fit a unique situation. Coupled with this problem is the ineffective strategy of using military interdiction efforts, ways and means to reach an unmeasurable end. Past and present interdiction efforts have failed, troops are not properly trained, resources are declining and above all, an end state in the War on Drugs is not defined. Therefore, the military should not be involved in the War on Drugs.

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# MILITARY INVOLVEMENT IN THE WAR ON DRUGS

## "JUST SAY NO"

> The primary role of the Defense Department is to protect and defend this country from armed aggression. Nothing must stand in the way of our readiness or our preparedness to perform this task.
>
> —Frank Carlucci
> Secretary of Defense, 1988

Since the early 1900s, this country recognized the need to resolve the problem of drug abuse. Numerous Presidents during this period attempted to resolve this issue through various means primarily centered around civil Law Enforcement Agencies (LEAs). Throughout time, government placed increased emphasis on resolving the drug problem in America. This added emphasis coincided with changing world events such as the end of the Cold War and elimination of the communist threat. Coupled with these events was also a declining defense budget. With the demise of the communist threat, use of U.S. Military Forces began a gradual shift from a war against communism to participation in the War on Drugs. Such participation of these military forces centers on interdiction efforts supporting civil law enforcement agencies. The shift to military participation is evident in the 1997 National Security Strategy that specifically addresses use

of the Department of Defense (DoD) to assist in fighting the War on Drugs.

In 1989, Congressional interest increased through employing DoD as a lead agency to detect and monitor the War on Drugs. In doing so, the military became involved in an interdiction role just short of using force. Congressional interest culminated in Congress amending the 1879 Posse Comitatus Act thereby expanding the use of the military to resolve civil problems.[1]

Use of the military to combat the War on Drugs is an inappropriate and ineffective use of a valued national asset. Using the military in areas other than war fighting does little to win the War on Drugs and lessens the readiness of our military forces. Furthermore, military troops are not properly trained to conduct civil operations.

This Research Paper will support this thesis by examining the following areas: national policy evolution, Posse Comitatus Act, military strategy including interdiction, ways, means and ends, inappropriate strategy, and conclude with recommendations and a summary.

## BACKGROUND

The National Drug Control Strategy of 1997 fully illustrates the concern regarding the drug threat:

> Drug abuse and its consequences destroy personal liberty and the well being of communities. Crime, violence, anti-social behavior, accidents, unintended pregnancies, drug-exposed infants and addiction are only part of the price illegal drug use imposes on society.[2]

This issue of the drug threat is one that has had the attention of this country starting in the early 1900s. It is a dangerous threat that affects nearly everyone in the United States. The use of illegal drugs in America levies a financial burden of $67 billion annually in social, health and criminal costs.[3] As of 1997, the President's National Drug Strategy indicated that 12.8 million Americans are currently using illegal drugs. These drug users also comprise a large portion of the American work force. Furthermore, the same drug users require large sums of money to purchase illegal drugs, which increases crime rates. This surge in crime takes the drug problem to the heart of America, deeply affecting society itself.

Society experiences the pain of the drug problem through its impact on the work environment and the criminal justice system. It is estimated that 71% of all illegal drug users are

employed either full or part time.[4] The impact on business is a substantial drain on productivity due to medical expenses, absenteeism, and theft by those supporting their drug habit, thereby creating indirect losses to business in the following ways:

- Drug users are three-and-a-half times more likely to be involved in a plant accident
- Drug users are five times as likely to file a worker's compensation claim
- Drug users receive three times the average level of sick benefits
- Drug users function at only 67% of their work potential.[5]

These same drug-infected employees are also a financial burden taxing the criminal justice system. There is documented evidence that links drug use, crime and violence. In 1994, there were 1.14 million drug-related arrests in this country.[6] This enormous number of criminal arrests has over burdened our court system and has overloaded the jails and prisons.[7] The net result is that the law-abiding citizen continues to pay taxes earmarked to support LEAs, civil courts, jails and prisons required for drug abusers.

The continuing growth in drug related incidents slowly creeps into the life of every American citizen. Each citizen feels the impact through increased taxes or as a victim of a drug-related crime. When such problems hit at the heart of America, government asserts itself to resolve the problem. In doing so, we see the implementation of specific policy to combat the War on Drugs.

## NATIONAL POLICY EVOLUTION

U.S. policy regarding the drug issue is normally in a continuous state of transition. In 1909, the United States initiated efforts to solve problems associated with narcotics. Such efforts resulted in the formation of the International Opium Commission used as a forum to address problems associated with opium usage.[8]

The International Opium Commission was only the beginning of the United States policy towards drugs. During the early 1920s, a negative attitude toward drug usage emerged throughout the United States. Reacting to this attitude swing, President Hoover created the Federal Bureau of Narcotics.[9] The bureau monitored all aspects of drug control efforts to include supply, interdiction, and impact on the public. Furthermore, the bureau

prevailed upon religious groups to support and encourage anti-drug sentiment in the United States.

During the 1960s and 1970s, public support of anti-drug policy was high. In fact, President Nixon appropriately labeled "drugs" as this country's number one enemy.[10] This label highlighted the importance of the drug problem to the American public.

Heightened emphasis continued into the 1980s. In 1986, President Reagan signed the National Security Decision Directive 221 (NSDD) addressing narcotics and national security issues. Its purpose was to evaluate the threat to U.S. security and direct specific actions to counter the threat. The NSDD implemented the following policy:

> It is the policy of the United States, working in cooperation with other nations, to halt the production and flow of illicit narcotics, reduce the ability of insurgent and terrorist groups to use drug trafficking to support their activities, and strengthen the ability of individual governments to confront and defeat this threat.[11]

Also addressed in this same document was further direction by the President to expand the role of military forces in providing support for the counterdrug efforts.

President Bush continued the policy set forth by the Reagan administration as he introduced his National Drug Control Strategy. Applying more emphasis to drug control, President

Bush began to refer to the counterdrug effort as the "War on Drugs." At the same time, he demanded increased use of the military in the drug war effort. Supporting this 1989 strategy, Secretary of Defense Dick Cheney proclaimed that detecting and countering the use of drugs was a priority mission of the Department of Defense (DoD):

> Our specific mission in the Department of Defense is to protect national security. There can be no doubt that international trafficking in drugs is a national security problem for the United States. Therefore, the detecting and countering of the production and trafficking of illegal drugs is a high priority, national security mission of the Department of Defense.[12]

The Clinton Administration continued with the basic theme as set forth during both the Reagan and Bush administrations. After taking office, President Clinton elevated the Director of the Office of National Drug Control Policy (ONDCP) to cabinet status.[13] He later underscored this emphasis by appointing retired General Barry R. McCaffrey to head the ONDCP with the title of Drug Czar. The war on drugs now had a genuine military leader leading the national campaign. President Clinton's 1997 National Security Strategy perpetuates past policy with greater emphasis on the use of all available resources:

> The U.S. response to the global scourge of drug abuse and drug trafficking is to integrate domestic and international efforts to reduce both the demand and the supply of drugs. Its ultimate success will depend on concerted efforts by the public, all levels of government and the private sector together with other governments, private groups and international organizations.[14]

Finally, the 1997 National Drug Control Strategy laid additional groundwork to support the overall drug control policy. It specifically addressed two main approaches; limit availability and reduce the demand for drugs.[15] Again, this strategy continues the theme as previously stated in NSDD 221.

It is evident our government desires to stop the flow of drugs and control its use in this country. This policy progressed to the point where DoD is now playing a substantial role in supporting such an endeavor. Specifically, the military is used to support interdiction efforts to halt the flow of drugs into this country. Such interdiction efforts include: Navy and Coast Guard ships, Air Force fighter intercept aircraft, Army and Marine Corps reconnaissance assets, and land-based radar.[16]

Although our national leaders use many assets to stop the flow of drugs, they should reconsider the use of DoD to assist in the domestic interdiction effort. Using the military as an instrument of power to halt the production and stem the flow of drugs will not provide the solution to the drug problem.

Furthermore, use of military interdiction efforts to control a civil problem could lead to complicated legal problems.

## POSSE COMITATUS

> One of America's greatest strengths is that the military is responsive to civilian authority and that we do not allow the Army, Navy, and the Marines and the Air Force to be a police force. History is replete with countries that allowed that to happen. Disaster is the result.
>
> —— Major General Stephen G. Olmstead
> Deputy Asst. Secretary of Defense for Drug Policy, 1987

Use of military troops to resolve civil problems has been an issue since the conception of the U.S. Constitution. Our founding fathers were concerned with ensuring civilian control of a large standing army. This concern stemmed from the use of British troops to arrest colonial citizens. Additionally, in 1855, federal troops were called upon to maintain law and order as Kansas evolved into statehood. Later during the post Civil War, military troops again arrested citizens and actually tried them before military courts.[17] The military was again used during post Civil War Reconstruction to enforce order during southern state elections. In fact, all southern states were placed under direct military rule.

Reacting to continued use of military troops and the potential abuse of this powerful force, Congress enacted

legislation to provide controls on use of the military. To restrict the use of military forces in civil activities, Congress passed the Posse Comitatus Act in 1879.[18] This act prohibited use of military personnel in making civil arrest to maintain law and order.

Although first enacted in the 1800s, the very intent of this act remained intact until the 1980s. The war on drugs became a high priority issue in this country due to the inability of civil law enforcement agencies to halt the flow of drugs. Congress reacted by enacting legislation permitting DoD to assist LEAs in drug interdiction efforts. Again, the question of using a military force to control a civil law enforcement problem was a major issue. Former Secretary of Defense Dick Cheney fully understood the implications of this legislation when he stated: "the Defense Department is not a law enforcement agency. We do not enforce domestic criminal laws, nor can we solve society's demand problem."[19]

Recognizing the legal implications of violating Posse Comitatus, Congress enacted new legislation. Additional legislative direction expanded the authority for using the military during certain types of indirect assistance. The National Defense Authorization Act of 1989 specified the major responsibilities of DoD:

- Act as the single lead agency for detecting and monitoring the aerial and maritime transit of illegal drugs into the United States.
- Integrate U.S. command, control, communications, and technical intelligence assets that are dedicated to the interdiction of illegal drugs entering the United States into an effective communications network.
- Approve and fund state governors' plans for using the National Guard to support the operations of drug law enforcement agencies.[20]

Congress attempted to clearly spell out the specific interdiction role of the military. However, historical military campaigns reveal that detecting, monitoring, and interdicting enemy equipment or personnel is a difficult task. Furthermore, the military does not have effective ways or means to achieve the ends desired in such a complex drug war.

## MILITARY STRATEGY

### INTERDICTION

Goal four of the 1997 National Drug Control Strategy is to: "Conduct flexible operations to detect, disrupt, deter, and seize illegal drugs in transit to the United States and at U.S.

borders."[21] This is a lofty goal in light of the fact the U.S. borders are so large, making it difficult to control the influx of people. In fact, in the summer of 1997 Congress approved an additional 10,000 soldiers to patrol the border in Mexico.[22] After realizing that adding these additional troops was a bad idea, Congress reversed its decision in the 1998 Defense Authorization Bill. Controlling borders of this magnitude requires vast amounts of funding and scarce military resources.

The U.S. Customs Service indicates 60 million people enter this country each year via 675,000 commercial and private aircraft.[23] Additionally, 116 million vehicles cross both the Mexican and Canadian borders each day.[24] A domestic U.S. drug interdiction effort is a monumental undertaking especially when the job encompasses a country with a 2,000 mile border with Mexico, 5,500 mile border with Canada and a 12,000 mile U.S. coastal border.[25]

Surveillance and control of such large borders is both demanding and costly. Involvement of DoD in this questionable effort requires dedication of expensive assets to include aircraft, ships, and personnel. The draw of DoD equipment and personnel into an interdiction effort has historically proven unsuccessful. The United States military attempted several interdiction efforts to turn the tide of warfare. Such efforts

took place during the Civil War, Cold War, Korean War and Vietnam War.

During the Civil War, Union forces used their Navy to blockade Southern Ports to prevent the flow of goods. The blockade of any port during war will have some success. However, it is difficult to determine if such blockades of the Southern Ports actually played a decisive role in the final Union victory. Historians still debate whether this blockade had an impact on the outcome of the war.

Another example is the Berlin blockade by the Soviets that proved to be a true failure of interdiction efforts. In 1948 the Soviets blocked Allied access to Berlin by closing road and railroad routes through East Germany. However, as in many interdiction efforts the tables may turn as the interdicted force simply changes its means of supply thus negating any interdiction effort. This was demonstrated in the Berlin Blockade as the Allies simply took to the air to resupply Berlin.

Interdiction efforts were again ineffective during the Korean War. The military attempted to interdict the flow of Chinese forces and equipment as they moved from China to North Korea. Air power was used as the interdiction tool and only operated during the day. This allowed the flow of enemy

equipment and supplies to continue during the night in support of both Chinese and North Korean forces. It should be noted that during this campaign the United Nations levied specific constraints on the use of military force during the interdiction effort. The military was restricted from attacking the Chinese homeland thus limiting the success of the operation. We will see such constraints used again during the Vietnam War.

Another use of interdiction efforts rest with the Vietnam War. At the onset of the war, it became obvious the majority of supplies from North Vietnam were delivered via waterways down the coast. The military initiated strong air and naval campaigns to interdict the flow of arms and supplies. This effort proved very successful in stopping the flow of enemy goods to the South. However, as we found in Korea, the enemy simply devised another method of achieving its delivery of supplies. A new approach in this case was to simply divert supply operations to a land route. This land route became commonly known as the Ho Chi Minh Trail, famous for supporting the enormous flow of personnel and supplies into South Vietnam.

Although North Vietnam's efforts shifted from water routes to land routes, the supply line continued to be successful. Additionally, our government placed specific constraints on the use of the military in bombing positions in North Vietnam. Like

Korea, it was difficult to conduct interdiction operations when U.S. forces are so constrained. The enemy can always adjust to military interdiction efforts under such circumstances.

History of interdiction efforts shows there is more than one avenue available to distribute supplies. The interdicted force usually has other options available to continue with the supply effort. Additionally, constraints placed upon the military during interdiction missions only supports the enemy. The enemy will always use such constraints to their advantage thereby continuing with the supply of resources to the appropriate customer. Finally, today's drug interdiction missions may shut down drug efforts in one area but the serious trafficker will simply adjust the operation to another method of supply. It therefore becomes very difficult to achieve success in the counterdrug effort.

WAYS

To support the counterdrug policy, our national leaders concluded that using the military instrument is the required course of action necessary to help win the War on Drugs. Yet, this instrument was designed, as stated in the constitution, "to suppress Insurrections and repel Invasions." The current War on Drugs is conducted in peacetime using peaceful means. Contrary

to this philosophy, military forces are not adequately trained to use peaceful means to win wars, especially a War on Drugs. Former Secretary of Defense Frank C. Carlucci fully understood the role of the military and problems associated with its use in the counterdrug effort when he said, "military personnel are trained and equipped to shoot everybody that comes over the hill…they are not trained and equipped to distinguish the good guys from the bad."[26]

The Posse Comitatus Act is very clear as to its intent and rules of punishment if violated. U.S. Code, section 1385 clearly spells out the impact of violating this act:

> Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years.[27]

To avoid violating this Code, Congress passed the Defense Authorizations Act of 1989, expanding the use of the military in support of civilian law enforcement. This act further recognized an increased military law enforcement role for the National Guard. It also designated DoD as the single lead agency of the federal government to detect and monitor the transit of illegal drugs into the U.S. These actions opened the door for using military forces, thus not encroaching on the intent of Posse Comitatus. None the less, the military remained

restricted from search, seizure and arrest. Although not allowed to perform specific law enforcement activities, the military still expends valuable resources supporting the counterdrug effort.

MEANS

The support of National Drug Strategy by military means diverts valuable yet limited resources from a warfighting readiness posture to a peacetime, domestic war on drugs effort. The 1997 Annual Report to the President and Congress clearly highlights the importance of combat readiness by stating: "Keeping American forces ready to fight requires an appropriate force structure, modern equipment, maintenance and logistics support, and trained and motivated personnel. A deficiency in any of these elements can hurt readiness, inhibiting the deployment of forces."[28] When the Secretary of Defense accepted the lead role for detecting and monitoring transit of illegal drugs into the U.S., it became evident there would be a drain on existing resources.[29] This came at a time when the DoD budget was on the decline and every dime expended on DoD resources was deemed essential for readiness.

Joint Publication 3-07.4, Joint Counter Drug Operations, identifies massive resources required to support a national

counterdrug effort. These resources are not additive to DoD but are sourced from existing military manpower and force structure. Expenditure of such resources include:

- Detection and Monitoring: detect and monitor aerial and maritime assets
- Command, Control, Communications and Computer Support: provide support for enforcement activities.
- Intelligence Support: provide support to Law Enforcement Agencies (LEA) and host-nations
- Planning Support: provide support to LEAs and host nations
- Logistical Support: provide equipment loans, engineering support, transportation, maintenance, and facility support to LEAs
- Training Support: provide training for LEAs and host-nation military police

These support functions are just a few resource requirements required of the military in the counterdrug effort. Providing this support requires using limited personnel, limited funding and limited equipment to support Air Force, Army, Navy and Coast Guard efforts. Use of limited resources places

greater emphasis on ensuring that such expenditures will result in a successful operation.

## ENDS

Ends are described as objectives which individuals or organizations strive to achieve. In other words, what is the end product resulting from military counterdrug efforts? We have seen that without the clear delineation of objectives, use of the military instrument of power becomes a controversial issue and often times does not achieve the desired results. A clear example of this was brought to the forefront during U.S. involvement in the Vietnam War.

The military was an essential instrument of power but was employed without clear definable objectives. Therefore, the U.S. withdrew its forces without victory in hand. This lesson was not forgotten as the U.S. entered the Gulf War. It was evident from the start there were clear, concrete objectives established before we executed the war. Henceforth, the military was a decisive, successful instrument of power that accomplished all U.S. objectives. Finally, the identification of clear objectives in concert with employment of military forces clearly enhances the opportunity for success and gains public support.

The term "War on Drugs" has become standard phraseology used to describe U.S. policy regarding the counterdrug effort. Such a phrase draws natural attention to using military forces to fight and win such a war. It becomes difficult for the military to win such a war when the end state is not defined. The 1997 Quadrennial Defense Review clearly addresses the proper use of the military: "military forces should be used only if they advance U.S. interests, are likely to accomplish their objectives and other means are inadequate to accomplish our goals."[30]

Current U.S. strategy/policy on drugs does not allow for a clear delineation of the culminating point or goal. Our government should not use the military as an instrument of policy unless there is a clear definition of the end state. Use of the military in the War on Drugs led most to believe that to achieve victory was simply a matter of engaging and destroying the enemy. Such a victory is unobtainable without a clear understanding of the objective that will define the end. Therefore, future strategy/policy should avoid objectives which are militarily impossible to achieve.[31]

## INAPPROPRIATE STRATEGY

Is the use of the military to fight the War on Drugs effective in supporting military strategy? The question has no clear-cut answer. It is very difficult to measure success in a war that contains no clear, definable objectives or termination point. Without some measurable means to determine the achievement of military objectives, the use of the military will come under increasing attack and soon become politically problematic. Senator Joseph Biden made this clear in a 1993 statement when he said:

> It is time to reassess the wisdom of devoting massive resources to the international interdiction effort—particularly to the Department of Defense, which has received the most significant funding increases during the past four years, but whose programs have not proven effective.[32]

Additionally, Attorney General Janet Reno added her concern regarding the success of the counterdrug effort when she stated, "It's time that we start and come up with hard data with the issue of whether or not interdiction is efficient and effective."[33] The bottom line: use of the military to fight and win the War on Drugs is not working.

## RECOMMENDATIONS

ELIMINATE MILITARY INVOLVEMENT

Recently a Marine fired his M-16 rifle at a suspected drug smuggler resulting in the death of an 18-year-old boy. This incident brought swift reactions from members of Congress. They demanded an immediate hearing to review how someone in the military could kill a civilian. This is the same Congress that drew DoD into the War on Drugs. The same Congress that amended the Posse Comitatus Act permitting further involvement of the military in drug interdiction efforts. A deadly example such as this shows the complexity of legal issues associated with using the military to enforce civil laws. Troops who must now guard the borders must also guard against legal action if something goes wrong.

History has proven that interdiction efforts coupled with specific constraints are unsuccessful. Due in fact to the enemy's ability to adjust his mode of operations each time force is levied upon him. It is also a result of the military's inability to control large land borders and seacoast. The latest information indicates that with such large areas to patrol, limited interdiction assets and trafficker initiative, success resides with the smuggler.[34]

U.S. resources are stretched thin due to reduced DoD funding, downsizing of forces and proliferation of military operations in all parts of the world. When the counterdrug monitoring post in Key West Florida required assistance in tracking unknown aircraft, the military was unable to assist. The required specialized military aircraft had maintenance problems, additional aircrews were unavailable and other military aircraft were flying over Korea, Iraq, and Bosnia.[35]

Coupled with this drain on resources was General Barry McCaffrey's recent request for additional funding from DoD. He requested DoD increase the 1999 drug fighting budget by an additional $141 million.[36] A DoD spokesperson responded to this request by stating: "We're being asked to do more with less every day, and we have to prioritize our funding programs."[37]

Use of military forces in combating the drug war is not working. Without clear military objectives to signal a winning of the War on Drugs, without the ability to use the military force as designed and due to limited resources, the president must readdress the use of the military to support his domestic drug policy. Our policy of using the military to fight the domestic War on Drugs should change by eliminating the role of the military and allowing the civilian agencies to take total control in the domestic effort. After all, the president's 1997

National Control Strategy highlights that without the military there are still over 50 federal departments and agencies involved in the drug control effort.[38] With so many departments and agencies, it seems logical that the true solution rests with controlling the demand for drugs.

## EMPHASIZE DEMAND REDUCTION

> In a perfect world, eliminating the demand for illegal substances would unilaterally resolve the drug problem eventually. Absent demand, the impetus for the drug trade-profit-would disappear. So, too, would the social and health costs of drug abuse.
>
> —The National Drug Control Strategy: 1997

With removal of the military from the war on drugs it is evident a new attack should focus primarily on the demand for illegal drugs. The first and foremost issue is to identify a single lead agency to lead this effort. Currently the ONDCP has no directive authority over the many agencies involved in drug control.[39] Secondly, this office should target issues such as increased penalties for drug abusers, address mandatory sentencing for the use of firearms in a drug-related incident and reintroduce drug awareness programs focused on young school children. Resolution of the drug problem in America can only be realized through the targeting and elimination of the demand for drugs.

## SUMMARY

Why should the military be involved in fighting the war on drugs? Resources are declining, interdiction efforts are ineffective, troops are not properly trained, legal restrictions are confusing, and there are numerous distractions from the real DoD war-fighting mission. It simply has not worked. These many issues simply muddy the water when our government improperly uses its military power to solve a social problem.

Finally, we must not lose sight of the purpose of U.S. military forces as noted in the Quadrennial Defense Review: "U.S. national interest and limited resources argue for the selective use of U.S. forces. The primary purpose of U.S. forces is to deter the threat of organized violence against the United States and its interest."[40] The military should not be used to fight the War on Drugs.

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