STRATEGY
RESEARCH
PROJECT

The views expressed in this paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency.

ANALYSIS OF THE MILITARY ROLE IN AMERICA'S DOMESTIC COUNTERDRUG EFFORT

BY

LIEUTENANT COLONEL SCOTT TAYLOR
United States Army

DISTRIBUTION STATEMENT A:
Approved for public release.
Distribution is unlimited.

USAWC CLASS OF 1998

U.S. ARMY WAR COLLEGE, CARLISLE BARRACKS, PA 17013-5050

DTIC QUALITY INSPECTED 2

19980520 138

USAWC STRATEGY RESEARCH PROJECT

ANALYSIS OF THE MILITARY ROLE IN AMERICA'S DOMESTIC COUNTERDRUG EFFORT

by

Scott Taylor

Professor James Kievit
Project Advisor

The views expressed in this paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency.

U.S. Army War College
CARLISLE BARRACKS, PENNSYLVANIA 17013

DISTRIBUTION STATEMENT A:
Approved for public release.
Distribution is unlimited.

DTIC QUALITY INSPECTED 2

ABSTRACT

AUTHOR: Scott Taylor, LTC, USA

TITLE: Analysis of the Military Role in America's Domestic Counterdrug Effort

FORMAT: Strategy Research Project

DATE: 14 April 1998 PAGES: 37 CLASSIFICATION: Unclassified

Over the past few years, Congress has passed legislation to greatly increase the military role in America's domestic counterdrug effort. The Department of Defense (DoD) eventually responded with a comprehensive plan and is now deeply ingrained in the fight. This study explores the formulation of legislation and policy that led to this increased role and, in particular, how it was developed in relation to Posse Comitatus restrictions. It further addresses the type military missions performed and analyzes whether they are appropriate based on select criteria. It concludes that DoD's interpretation of law and policy is flawed with respect to one particular mission type -- ground reconnaissance and surveillance. This border mission inevitably places troops in a confrontational role with drug smugglers, a direct law enforcement scenario unintended by Congress.

TABLE OF CONTENTS

ABSTRACT iii

CURRENT AUTHORITY AND POLICY 2

DEPARTMENT OF DEFENSE MISSIONS 6

ANALYSIS OF MISSION APPROPRIATENESS 8

CONCLUSIONS 21

ENDNOTES 25

BIBLIOGRAPHY 29

On 20 May 1997, an active-duty U.S. Marine corporal fatally shot 18 year-old Esequiel Hernandez with an M16 rifle along the Rio Grande on the U.S.-Mexico border. Both men were simply doing their jobs -- Corporal Clemente Banuelos surveilling a suspected civilian drug corridor and the teenager tending his family's goat herd. Both civilian and military inquiries into the incident concluded that the Marine fired in self-defense after Hernandez fired his rifle at the patrol. Nevertheless, on 30 July 1997, Defense Secretary Cohen suspended all military ground patrols along the entire Mexican border.[1] As of the writing of this paper, the suspension remains in effect.[2]

This incident occurred as part of a governmental response to the staggering statistics associated with American illegal drug use. During 1995, some 20 million Americans used some form of illicit drug, while 12.8 million of those could be termed regular users.[3] Between 1992 and 1995, the rate of drug use by teenagers more than doubled.[4] Because of the dramatic negative impact on the U.S. criminal justice and health care systems, economy, and social fabric, the federal, state, and local governments collectively spend about $30 billion annually to combat this overwhelming problem.[5]

On the surface, the sheer magnitude of the drug threat seems to justify the use of whatever means necessary -- drastic action for a drastic problem. But the May shooting incident causes one to pause and question if the government has perhaps gone too far.

Specifically, it leads one to reflect on the evolution of the use of the active military in counterdrug operations.* What is the military really doing in this arena and is it indeed proper? This paper explores current authority and policy for active military use in the "war on drugs," specific military domestic counterdrug missions, criteria for mission assignment, and the appropriateness of military counterdrug missions based on these criteria. It concludes that the Department of Defense (DoD) has indeed gone too far in its translation of Congressional law and the national drug control strategy, specifically by allowing direct military participation in ground reconnaissance and surveillance along the U.S. borders.

CURRENT AUTHORITY AND POLICY

> Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the 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, or both.[6]

The law cited above is commonly known as the Posse Comitatus Act. Enacted in 1878 in response to Southern concern over the use of federal troops to enforce Reconstruction policies, the law prohibited military participation in enforcing any civil law,

* For purposes of this paper, the active military includes all armed forces under federal control -- the active and reserve components, as well as the National Guard under federalized conditions. It does not include National Guard forces in their state-controlled status.

whether federal, state, or local, without Congressional authorization. Until 1981, however, considerable court debate occurred over what constituted "executing the law." Generally, a distinction was made between indirect, passive activities and direct, active participation in investigation or arrest, wherein the former was permissible and the latter not. For example, federal courts ruled that the Army's providing armored personnel carriers to the Federal Bureau of Investigation (FBI) during the 1973 Wounded Knee uprising was a form of indirect assistance that did not violate Posse Comitatus restrictions.[7]

In 1981, as part of the effort to stem the growing illegal drug problem, Congress decided to eliminate any further debate over using the military in an indirect, passive role. Hence, the origins of active military support to the counterdrug effort can be traced to the Defense Authorization Act of 1982 (Public Law 97-86), which satisfied the Posse Comitatus Act by allowing and directing the military to provide assistance to law enforcement agencies. The law ensured that military material, information, and human resources would be used in the war against drugs. Specifically, the DoD was to assist law enforcement agencies by providing relevant information, equipment, facilities, training, advice, and general assistance. But, two caveats were included: assistance would not adversely affect military readiness or

preparedness, and there would be no direct participation in interdiction*, search, seizure, arrest, or similar activity.[8]

Despite a concerted national drug control effort, the 1980s saw a continuing increase in illegal drug use and thus a corresponding rise in political pressure. In yet another effort to show its resolve against America's number one enemy, Congress included measures in the Defense Authorization Act of 1989 (Public Law 100-456) which dramatically increased military involvement in counterdrug operations to unprecedented levels. It designated DoD to: serve as lead agency for detection and monitoring of aerial and maritime drug trafficking across U.S. borders; integrate the command, control, communications, and technical intelligence assets dedicated to drug interdiction into an effective communications network; and enhance state governors' use of the National Guard in support of drug interdiction.[9] The latter mission was undoubtedly included to capitalize on the National Guard's Title 32 non-federalized status, one that is not subject to Posse Comitatus restrictions.[10]

While this law still did not authorize those police functions considered highly intrusive -- search, seizure, arrest, interrogation, direct confrontation, evidence collection -- it certainly moved the military farther along the continuum toward active, direct activities. The position was now established for

* defined in this context as the prohibition of movement of aircraft and water vessels

a much broader military permissiveness, especially along the national borders. As long as a nexus existed between illegal drugs and the support given, and the highly intrusive activities were avoided, military support to civil authorities on border missions was given the greatest latitude.[11] In essence, this Act provided the basis and impetus for a flawed DoD interpretation of mission appropriateness as it related to ground reconnaissance and surveillance. After all, if DoD were to serve as lead agency for maritime and aerial detection and monitoring, then it might seem there should be no problem in performing similarly on the ground.

Also, since 1989, the Office of National Drug Control Policy (ONDCP) has published an annual national drug control strategy, co-signed by the President and the ONDCP director. President Clinton, in an effort to achieve a properly balanced demand-supply reduction approach, identifies five strategic goals in the latest (1997) edition:

Goal 1 -- educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco.

Goal 2 -- increase the safety of America's citizens by substantially reducing drug-related crime and violence.

Goal 3 -- reduce health and social costs to the public of illegal drug use.

Goal 4 -- shield America's air, land, and sea frontiers from the drug threat.

Goal 5 -- break foreign and domestic drug sources of supply.[12]

While the drug control strategy does not specifically mention use of the military, DoD derives its missions primarily from Goals 4 and 5 in support of the national effort.

DEPARTMENT OF DEFENSE MISSIONS

Within the framework of Congressional mandates and presidential direction, former Secretary of Defense William Perry established five counterdrug mission areas in 1993 that remain applicable today:

•provide counterdrug training, operational, and materiel support to drug-source and drug-transit nations.

•support the domestic efforts of the U.S. drug law enforcement community.

•give special support to the international cocaine strategy of the Drug Enforcement Administration (DEA).

•detect and monitor the air and sea illicit drug transportation networks.

•assist with the demand-reduction strategy in local communities and within DoD.[13]

The organization responsible to translate and execute the above missions is Joint Task Force Six (JTF-6), Fort Bliss, Texas. Established in 1989, it is an active-duty unit whose

mission since 1995 has been to coordinate all DoD counterdrug support to drug law enforcement agencies (DLEA) in the continental United States. Its chain of command runs through U.S. Forces Command to U.S. Atlantic Command to the Secretary of Defense (Assistant Secretary of Defense for Special Operations and Low Intensity Conflict).[14]

JTF-6 provides 38 types of missions to DLEAs that fall into one of five major categories:

Operational Support: typical missions include aviation medical evacuation, aviation operations, aviation reconnaissance, ground reconnaissance, ground transportation, listening/observation posts, ground surveillance radar and sensors employment, and unmanned aerial vehicle flights. At any one time, JTF-6 may have tactical control (TACON) of up to 2,000 soldiers, sailors, airmen, and marines, and the vast majority are deployed in performance of this category of support.

Rapid Support: provided within 72 hours by a special forces company to respond to perishable or predictive intelligence. Most missions involve special reconnaissance (ground recon, listening/observation posts); the rest are mobile training team taskings.

Intelligence Support: entails providing military intelligence specialists for imagery interpretation, translator and linguistic support, and case-specific analysis. Reservists

(Title 10 federalized) on three- to four-month tours perform most of these missions.

General Support: augmentation of DLEAs with military-specific skills, training, transportation, canine support, communications, and technology. Most missions involve three to five days of training conducted by a mobile training team.

Engineer Support: involves road repair and various construction projects. Typical missions include constructing border fences, lighting, and law enforcement facilities.[15]

These five categories focus on accomplishing the second and fifth DoD missions. But one can see that JTF-6's translation, with DoD approval, includes tasks that involve a greater degree of direct "law enforcement" than provided for in PL 97-86 and PL 100-456. Specifically, ground reconnaissance/surveillance, listed under the operational and rapid support categories, seems questionable given the law's stated prohibition against missions having a probability of direct confrontation. In order to evaluate whether ground reconnaissance/surveillance is indeed proper, one must analyze it in relation to relevant criteria.

ANALYSIS OF MISSION APPROPRIATENESS

The appropriateness of ground reconnaissance/surveillance is explored using five other JTF-6 missions for comparison purposes -- command and control, intelligence, engineer, general support,

and air visual support. All six missions are evaluated against four criteria.

The selection of criteria is subjective; in this case, an attempt is made to choose criteria that could be common-sensically applied for any military mission, not just counterdrug. All criteria should be satisfied in order for a particular mission to be considered appropriate. These criteria are defined as follows:

Uniqueness -- quality of being the only agency to perform a mission based on specialized capability, training, or equipment or the ability to perform a mission significantly better than any other.

Suitability -- condition of whether a mission is consistent with the military's charter and to what degree it adds or detracts from military readiness.

Public Acceptance -- degree to which the general public tolerates the military performing a mission when things are going well and when they're not.

Desirability -- degree to which DLEAs desire military involvement in a mission.

COMMAND AND CONTROL

Command and control integration was a key element addressed in the Defense Authorization Act of 1989. JTF-6, which has already been described, provides planning and tactical

intelligence to military units as well as tactical control of units during conduct of the actual direct support. There are two additional DoD command and control organizations in the form of joint interagency task forces (JIATF). JIATF East is a subordinate joint command of U.S. Atlantic Command. Located in Key West, Florida, it coordinates surveillance of the air and sea approaches to the United States through the Atlantic and Eastern Pacific Oceans and the Caribbean Sea. JIATF West is a subordinate joint command of U.S. Pacific Command. Located at March Air Force Base, California, it detects and monitors maritime and air drug trafficking in the Eastern Pacific Ocean (west of 92 degrees west longitude).[16]

Command and control necessarily satisfies the uniqueness criterion in several ways. Since military members are conducting operations, military officials should be in charge of them. It would be inappropriate for the DEA or some other DLEA to command federal troops. It is perhaps analogous to U.S. policy in multinational operations that states that the "President retains and will never relinquish command authority over U.S. forces. On a case by case basis, the President will consider placing appropriate U.S. forces under the operational control of a competent U.N. commander for specific U.N. operations authorized by the Security Council."[17]

Specialized equipment, especially communications gear, is another key issue. The headquarters must be able to communicate

with aircraft in the air, ships afloat, and troops on the ground across the full spectrum of communications systems. No agency, other than DoD, has the full complement of satellites, encryption, and communications gear to control military personnel assets. Further, a military staff would be best able, through common training and language, to provide clear, understandable guidance to field units.

This mission is not only suitable for the military but is, in fact, inherent to its organizational control. Therefore, any practice of command and control, regardless of mission, would likely enhance the military readiness of those involved. No data could be found on public acceptance, but it is probable that people expect the military to control its own. Command and control is a non-intrusive activity outside the direct law enforcement realm and garners little to no media attention. Federal DLEAs, however, see DoD command and control as a force multiplier, ranking communications support as a high priority item (#2 of 20 desired program missions in 1994).[18] The control of large numbers of people and assets over extensive operating distances is viewed as a key asset other agencies lack.

In summary, command and control is a mission that fulfills all four criteria and is considered appropriate for the military to execute.

INTELLIGENCE

Intelligence support, as defined earlier under JTF-6 guidelines, includes imagery interpretation, linguistic/translator support, and case-specific analysis. Tactical intelligence support, such as terrain analysis and threat information, is provided to military units only; DLEAs receive law enforcement intelligence through their respective channels.[19] Also, DoD rules prohibit military members conducting intelligence gathering directed at specific individuals.[20]

The military does offer uniqueness in the intelligence arena. Unlike DoD, DLEAs do not have a satellite network or the associated imagery specialists. While some DLEAs have multilingual agents, they do not have the degree of language diversity required for today's counterdrug efforts. DoD employs a broad range of linguists, to include language capabilities in today's drug-threat countries, such as Nigeria, Russia, and China. Further, the large number of military members specialized in intelligence analysis offers a capability that other DLEAs can provide only in limited measure.

Document translation, imagery interpretation, threat analysis, and intelligence architecture building are all tasks that military intelligence specialists perform, so there is training value in conducting counterdrug missions. In addition to being suitable, intelligence support is also acceptable to the general public. These type missions are behind-the-scenes and

indirect in nature and would not likely be questioned even when things went awry. But there is little doubt of the intense DLEA desire for intelligence support. In 1995, JTF-6 received requests for over 1,000 intelligence analysts.[21] Federal DLEA and law enforcement agencies from three main high intensity drug trafficking areas (HIDTAs) ranked intelligence analyst support as #1 or #2 of 20 prioritized DoD missions; linguist support ranked #1 and #2 in two of the HIDTAs (Miami and Southwest Border).[22] Intelligence analyst support is particularly popular among DLEAs because of the manpower savings. It frees civilian agents from examining reams of paperwork to conduct operational investigative missions.

Like command and control, intelligence support meets all mission-appropriate criteria. The DoD prohibition against intelligence gathering directed at individuals is a key restriction that keeps this mission in a passive, acceptable mode.

ENGINEER

Engineer support is another area involving a substantial number of missions. During Fiscal Year (FY) 1996, JTF-6 oversaw 24 missions that included fence construction and repair (50.1%), road building and upgrade (22.7%), engineer assessments (13.6%), and facilities construction (13.6%).[23]

Army combat engineer units are unique in that they are designed to conduct all the missions listed above, while DLEAs have neither the equipment nor the expertise. Because Army engineer units have these tasks in their mission essential task lists, there is some training value associated with conducting the counterdrug missions. Some may argue that the counterdrug demands detract from activities that could be similarly performed in the active force, but JTF-6 actually relies heavily on the reserve component in this area.[24]

The general public likely perceives engineer support as a "free," non-intrusive, and positive contribution to the public sector. Due to the great number of corps of engineers (COE) projects scattered throughout the United States, people are accustomed to seeing this type support. While military members may distinguish between combat engineer units and COE districts, this distinction is transparent to the average citizen. Public furor occasionally rises over some COE project, but the dispute is typically based on background data, such as environmental or safety issues, not the contracted agency.

There is a strong demand for counterdrug engineer support. In 1995, JTF-6 received enough DLEA requests to absorb its entire FY 96 budget.[25] In terms of rank-ordered priorities, federal DLEAs ranked engineering #10 among a list of 20 desired mission areas.[26]

Overall, engineer support is a very practical application that meets all appropriateness criteria.

GENERAL SUPPORT

General support is essentially a training mission. In FY 96, 96% of JTF-6's 124 missions were mobile training teams (MTTs),[27] with the U.S. Army Military Police School conducting the vast majority.[28] Topics cover the full spectrum of military-unique support, often in the form of explaining the capabilities of military equipment and technology.

The inherent nature of this type support lends itself to satisfying the uniqueness criterion. Because the military has unmanned aerial vehicles, ground sensors, satellites, and the like, it follows that the military is best qualified to instruct on their capabilities and products. Since training is certainly a major activity of military organizations, there is training value in conducting the training itself. In order to not adversely affect the readiness of active duty schools through over-tasking, JTF-6 limits MTTs to a reasonable number. This is the limiting factor, as opposed to money, due to the low-cost nature of this type support.

Training is very non-intrusive and usually out of the public limelight. No research data were found to indicate any public concern in the area. But it is indeed a very popular request among DLEAs. For FY 96, JTF-6 received 225 DLEA requests for

MTTs, of which only 150 could be supported.[29] In the 1994 Booz-Allen & Hamilton study for the government, training support was the third most desired mission request among 20 mission types.[30]

General support easily satisfies all four criteria and is probably the least controversial of all missions due to its lack of direct involvement.

AIR VISUAL SUPPORT

Air visual support falls under the JTF-6 operational support category. In most instances, Army and Marine helicopters are used to locate marijuana fields and drug smugglers in rural terrain.

Air support can only be practically provided by the military. No DLEA has any significant helicopter fleet, whereas the Army and Marine Corps both have many rotary aircraft organizations. Helicopters provide the ability to hover over an area and thereby enhance visual accuracy. Due to skill and equipment complexity, pilots require extensive specialized training and certification to conduct these missions.

Aerial visual support is suitable for the military, since it is also a military mission. There is some training value, since flying any mission sustains or enhances certain basic pilot skills. Like most other missions, however, JTF-6 has to severely limit the number of flying hours to preclude detracting from other unit requirements.

There seems to be no problem with public acceptance. Flying over private property has been upheld by the U.S. Supreme Court as being non-intrusive in terms of Fourth Amendment issues. The likelihood of direct law enforcement confrontation is very low, and public visibility is virtually nil.

Because of its uniqueness and expense, air support is a high-demand mission request from DLEAs. In FY 96, aviation reconnaissance and support represented 23% of JTF-6's operational support missions.[31] Federal DLEAs ranked aerial visual support as #6 of 20 desired mission types in 1994.[32]

Air visual support, like the preceding four missions, meets all four criteria. The ability to stand off and observe, without likelihood of confrontation with those being observed, is key to this mission's acceptability.

GROUND RECONNAISSANCE/SURVEILLANCE

Ground reconnaissance/surveillance is a mission within JTF-6's operational and rapid support categories. Both the Army and Marine Corps provide personnel and units to conduct ground reconnaissance, which consists of two types of missions. One entails covering expansive terrain areas to find marijuana crops or to identify smuggling routes and clandestine airfields. The other type involves establishing listening/observation posts along likely smuggling routes. Either type mission can involve elements from squad-sized to several hundred military members.

In so far as feasible, personnel engaged in either mission typically avoid civilian contact and rely on night vision devices and daytime long-range vision means.[33]

While ground reconnaissance and surveillance are missions typically performed by Army and Marine units in the field, they are not missions requiring specialized military knowledge. Members of the U.S. Border Patrol (USBP) or some other DLEA could likely perform this mission just as well as the military. Observation through night-vision devices and binoculars is a rather simple task, and the equipment is easily accessible in the private sector. Because of the extensive length of the U.S. border with Mexico and Canada and the vast number of smuggling routes, this border-type mission is extraordinarily manpower-intensive. But even the sizable number of troops that the military could assign to this problem would not come close to meeting the requirement, so DoD's size in comparison to DLEAs is not valid justification for its use. All in all, ground reconnaissance/surveillance fails the uniqueness test.

Ground recon, in and of itself, is a suitable mission for ground forces. Most Army and Marine combat and combat support units reconnoiter and surveil as part of their wartime mission. Since it is a rather simple task, however, counterdrug missions probably provide little training value beyond small-unit command and control.

Public acceptance raises the biggest problem for military use in this arena. Under ideal prescribed conditions, the military is to be employed in locations where there is not a reasonable likelihood of direct law enforcement confrontation.[34] But the conditions are not ideal. Troops are on the ground along known routes streaming with drug traffickers and illegal aliens. Person-to-person contact is inevitable, be it accidental, in self-defense, or in emergency response to a humanitarian situation, as the incident with Esequiel Hernandez illustrates.

The death of a U.S. citizen, trespassing onto private property, or the destruction of private property are examples of events that could happen as a result of any DLEA's action. The public and media scrutiny of the FBI and Bureau of Alcohol, Tobacco, and Firearms (BATF) during the Ruby Ridge and Waco incidents, respectively, was brutal. Imagine the public reaction if the military had been the lead agency in either of these incidents, or if some similar incident occurs in its intrusive role on the border.

Further, the ultimate purpose of observation is apprehension, and this is a purely civilian law enforcement mission. The Immigration and Naturalization Service (INS), along with its subordinate USBP, have the specific charters to prevent the unlawful entry of people and contraband across U.S. borders.[35] Moreover, a 1996 Gallup Poll found that 22% of the American public hold police responsible for stopping illegal drug use,

compared to 6% for the federal government.[36] The military was not specifically mentioned in this survey, but would have fallen under the federal category. The bottom line is that ground reconnaissance/surveillance significantly fails to meet the public acceptance criterion.

Due to personnel resources, however, DLEAs frequently request this type support. Ground reconnaissance/surveillance represented 46.6% of JTF-6's 131 operational support missions in FY 96.[37] The Los Angeles and Southwest Border HIDTAs ranked it #1 and #2, respectively, in desired support among 20 mission types in 1994.[38]

While Congress' intent in 1981 and 1989 legislation was to satisfy Posse Comitatus and legitimize an indirect, passive police role for the military in the counterdrug effort, ground reconnaissance/surveillance entails eventual direct participation. Direct participation in civilian law enforcement violates the letter and intent of Posse Comitatus and is tantamount to something going awry. When something goes wrong, the public reacts accordingly. For what other reason than political concern over public reaction did Secretary Cohen suspend active troops on border recon after the Hernandez incident?

On the whole, the ground reconnaissance/surveillance mission fails to meet two -- uniqueness and public acceptance -- of the four criteria and is therefore inappropriate for military

execution. In this instance, DoD wrongly interpreted the degree of support allowed under the law and in presidential guidance. Congress never intended for the military to directly confront drug smugglers, yet troops will do just that in performing this mission.

SUMMARY

The following table summarizes the analysis of mission appropriateness:

MISSION TYPE	UNIQUENESS	SUITABILITY	PUBLIC ACCEPTANCE	DESIRABILITY
COMMAND & CONTROL	YES	YES	YES	YES
INTELL	YES	YES	YES	YES
ENGINEER	YES	YES	YES	YES
GENERAL SUPPORT	YES	YES	YES	YES
AIR VISUAL SUPPORT	YES	YES	YES	YES
GROUND RECON	NO	YES	NO	YES

CONCLUSIONS

Little doubt exists that the active military is deeply ingrained in America's counterdrug strategy. Due to DoD's vast resources, specialized equipment and technology, and reputation to accomplish the mission in a professional manner, Congress

steadily and increasingly expanded the military role over the last few years. Presidential guidance called for a coordinated national effort.

But DoD, in its zeal to do its share, incorrectly interpreted the law and guidance in part, resulting in an inappropriate mission -- ground reconnaissance/surveillance. This mission was analyzed for appropriateness in comparison to five other typical counterdrug missions by evaluating each against four common-sense criteria -- uniqueness, suitability, public acceptance, and desirability. The other five mission types satisfied all criteria. Ground reconnaissance/surveillance failed two criteria: uniqueness and public acceptance.

DoD failed to recognize the potential direct confrontational nature of ground reconnaissance/surveillance, an aspect that the public will not accept, especially when things go awry. Congress never intended for troops to be used in this manner. Ground reconnaissance/surveillance inevitably places troops in a direct law enforcement role. Such direct police activities strike at the very intent behind Posse Comitatus restrictions.

In 1988, then Secretary of Defense Frank Carlucci stated:

> I remain absolutely opposed to the assignment of a law enforcement mission to the DoD. And I'm even more firmly opposed to any relaxation of the Posse Comitatus restriction on the use of the military to search, seize, and arrest.[39]

Clearly, Mr. Carlucci lost the battle to prevent DoD's involvement in counterdrug efforts, but his emphasis on the prohibition of direct law enforcement reflects the American people's bottom-line position, especially for such a protracted scenario as this: capitalize on military strengths in an indirect, passive way but do not use DoD in a direct, active police role. The suspension of military ground patrols should become a permanent ban. Democracy demands enforcement of civil law by civil authorities, and a plethora of law enforcement agencies exists to do just that. America does not want a military state, so there is no need to begin a journey down that road. It is a path destined for adverse consequences, public rejection, tarnished images, and eventual failure.

Word Count -- 5,326

ENDNOTES

[1] Sam Verhovek, "Pentagon Halts Drug Patrols After Border Killing," New York Times, 31 July 1997, sec A, pp. 1,19.

[2] Colonel Don Daugherty, Office of National Drug Control Policy, Bureau of State and Local Affairs, telephone interview by author, 15 December 1997.

[3] Office of National Drug Control Policy, Drugs and Crime Clearinghouse National Criminal Justice Reference Service, Drugs and Crime Data, Fact Sheet, Drug Use Trends (Rockville, MD: Government Printing Office, July 1996), 2.

[4] Substance Abuse and Mental Health Services Administration, "National Household Survey of Drug Abuse Highlights," available from <http: //www.samhsa.gov/oas/nhsda/ar18t003.htm>; Internet; accessed 23 December 1997.

[5] William W. Mendel and Murl D. Munger, "The Drug Threat: Getting Priorities Straight," Parameters 27 (Summer 1997): 112.

[6] Crimes and Criminal Procedure, U.S. Code, vol. 9, sec 1385 (1994).

[7] Major Peter M. Sanchez, "The 'Drug War': The U.S. Military and National Security," Air Force Law Review 34, 1991: 118-121.

[8] Military Cooperation With Civilian Law Enforcement Officials, U.S. Code Congressional and Administrative News, 97th Congress, 1st session, 1981 (St Paul: West Publishing Co., 1981), vol 1, 1114-1116.

[9] Drug Interdiction and Law Enforcement Support, U.S. Code Congressional and Administrative News, 100th Congress, 2nd session, 1988 (St Paul: West Publishing Co., 1988), vol 2, 2042.

[10] Lieutenant Colonel Steven B. Rich, "The National Guard, Drug Interdiction and Counterdrug Activities, and Posse Comitatus: The Meaning and Implications of 'In Federal Service,'" The Army Lawyer (June 1994): 35-43.

[11] Thomas R. Lujan, "The Legal Aspects of Domestic Employment of the Army," Parameters 27 (Autumn 1997): 86.

[12] William J. Clinton and Barry R. McCaffrey, The National Drug Control Strategy, 1997 (Washington, D.C.: U.S. Government Printing Office, 1997), 29-38.

[13] Secretary of Defense William J. Perry, Memorandum, "Department of Defense Guidance for Implementation of National Drug Control Policy," Washington, D.C., 27 October 1993.

[14] William W. Mendel and Murl D. Munger, Strategic Planning and the Drug Threat (Carlisle, PA: U.S. Army War College, August 1997), 48.

[15] Brigadier General Benjamin S. Griffin, Joint Task Force Six Commanding General, Memorandum, "FY 96 Joint Task Force Six (JTF-6) Counterdrug Program," Fort Bliss, TX, 2 October 1995.

[16] Mendel and Munger, 53.

[17] Joint Chiefs of Staff, Unified Action Armed Forces (UNAAF), Joint Pub 0-2 (Washington, D.C.: Joint Chiefs of Staff, 24 February 1995), I-10,11.

[18] Department of Defense Office of Drug Enforcement Policy & Support, DoD Domestic Counterdrug Operational Support to Drug Law Enforcement Agencies (Falls Church, VA: Booz-Allen & Hamilton, Inc, 15 December 1994), 8.

[19] Mendel and Munger, 49.

[20] U.S. Department of Justice, DEA Handbook on DoD Support (November 1993), 10.

[21] Brigadier General Benjamin S. Griffin, 4.

[22] Department of Defense Office of Drug Enforcement Policy & Support, 8.

[23] Mendel and Munger, 50.

[24] Brigadier General Benjamin S. Griffin, 4.

[25] Ibid.

[26] Department of Defense Office of Drug Enforcement Policy & Support, 8.

[27] Mendel and Munger, 49.

[28] Brigadier General Benjamin S. Griffin, 4.

[29] Ibid.

[30] Department of Defense Office of Drug Enforcement Policy & Support, 8.

[31] Mendel and Munger, 49.

[32] Department of Defense Office of Drug Enforcement Policy & Support, 8.

[33] Joint Task Force Six, Operational Support Planning Guide, El Paso, TX, 1 July 1996, p. C-8.

[34] U.S. Department of Justice, 14.

[35] Mendel and Munger, 28.

[36] Office of National Drug Control Policy, A Look at How Americans View the Country's Drug Problem Summary Report (Rockville, MD: The Gallup Organization, March 1996), 43.

[37] Ibid., 49.

[38] Department of Defense Office of Drug Enforcement Policy & Support, 8.

[39] Frank Carlucci, Role of the DoD in Drug Interdiction, A Joint Hearing before the House and Senate Committees on Armed Services, 15 June 1988.

BIBLIOGRAPHY

Byrne, Sean J., Lieutenant Colonel. "Defense of Sovereignty: Domestic Operations -- Legal Precedents and Institutional Confusion." Carlisle Barracks, PA: U.S. Army War College Strategy Research Project, 1997.

Carlucci, Frank. Role of the DoD in Drug Interdiction, A Joint Hearing before the House and Senate Committees on Armed Services, 15 June 1988.

Clinton, William J. and McCaffrey, Barry R. The National Drug Control Strategy, 1997. Washington, D.C.: U.S. Government Printing Office, 1997.

Crimes and Criminal Procedure. U.S. Code. Vol 9, sec 1385, 1994.

Daugherty, Don, Colonel. Office of National Drug Control Policy, Bureau of State and Local Affairs. Telephone interview by author, 15 December 1997.

Department of Defense Office of Drug Enforcement Policy & Support. DoD Domestic Counterdrug Operational Support to Drug Law Enforcement Agencies. Falls Church, VA: Booz-Allen & Hamilton, Inc., 15 December 1994.

Drug Interdiction and Law Enforcement Support. U.S. Code Congressional and Administrative News. 100th Congress, 2nd session, 1988. St Paul, MN: West Publishing Co., 1988.

Griffin, Benjamin S., Brigadier General. Joint Task Force Six Commanding General Memorandum. "FY 96 Joint Task Force Six (JTF-6) Counterdrug Program." Fort Bliss, TX, 2 October 1995.

Joint Chiefs of Staff. Unified Action Armed Forces (UNAAF). Joint Pub 0-2. Washington, D.C.: Joint Chiefs of Staff, 24 February 1995.

Joint Task Force Six. Operational Support Planning Guide. El Paso, TX, 1 July 1996.

Lujan, Thomas R. "The Legal Aspects of Domestic Employment of the Army." Parameters 27, Autumn 1997.

Mendel, William W. and Munger, Murl D. "The Drug Threat: Getting Priorities Straight." Parameters 27, Summer 1997.

Military Cooperation With Civilian Law Enforcement Officials. U.S. Code Congressional and Administrative News. 97th Congress, 1st session, 1981. St Paul, MN: West Publishing Co., 1981.

Office of National Drug Control Policy. A Look at How Americans View the Country's Drug Problem Summary Report. Rockville, MD: The Gallup Organization, March 1996.

Office of National Drug Control Policy. An Overview of Federal Drug Control Programs on the Southwest Border. Prepared for the Senate Foreign Relations Committee and the Senate Caucus on International Narcotics Control, 29 October 1997.

Office of National Drug Control Policy. Drugs & Crime Clearinghouse National Criminal Justice Reference Services. Drugs & Crime Data, Fact Sheet, Drug Use Trends. Rockville, MD: Government Printing Office, July 1996.

Perry, William J. Secretary of Defense Memorandum. "Department of Defense Guidance for Implementation of National Drug Control Policy." Washington, D.C., 27 October 1993.

Rich, Steven B., Lieutenant Colonel. "The National Guard, Drug Interdiction and Counterdrug Activities, and Posse Comitatus: The Meaning and Implications of 'In Federal Service.'" The Army Lawyer, June 1994.

Rosenberger, Leif R. America's Drug War Debacle. Brookfield, VT: Ashgate Publishing Co., 1996.

Sanchez, Peter M., Major. "The 'Drug War': The U.S. Military and National Security." Air Force Law Review 34, 1991.

Stelzer, Edward E., Lieutenant Colonel. "Military Support to Domestic Law Enforcement Agencies: A Policy With Unintended Consequences." Carlisle Barracks, PA: U.S. Army War College Fellowship Research Project, 1996.

Substance Abuse and Mental Health Services Administration. "National Household Survey of Drug Abuse Highlights." Available from <http://www.samhsa.gov/oas/nhsda/ar18t003.htm>; internet accessed 23 December 1997.

U.S. Department of Justice. DEA Handbook on DoD Support. November 1993.

Verhovek, Sam. "Pentagon Halts Drug Patrols After Border Killing." New York Times, 31 July 1997, sec A, pp. 1, 19.

Whitehead, James W., Lieutenant Colonel. "Relooking Domestic Counterdrug Strategy: Is There an Increased Role for the Military?" Carlisle Barracks, PA: U.S. Army War College Strategy Research Project, 1997.