

THE POLICE-IZATION OF THE MILITARY

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This essay will briefly review the background of the use of the armed forces in a police capacity, discuss the growth of that role in the 1980s and 1990s, and forecast an even greater expansion into that role in the near future due to the emerging threat of "catastrophic terrorism." It will contend that this increased reliance on military resources for policing is not in the interest of either the armed forces or the public. Finally, it will make some observations with a view towards minimizing the dangers of police-ization of the military while ensuring the Nation's public safety.

INTRODUCTION

On May 20, 1997 a young American shot a Texas high school sophomore to death. Another instance of gang violence? No. In this case the shooter was a U.S. Marine on an anti-drug patrol along the Rio Grande, a military operation that was part of a large border surveillance project conducted under the aegis of Joint Task Force (JTF) 6.² The Marine mistook as a threat to his life - and that of the Marines with him - the teenager who, though armed with a rifle, was merely tending a herd of goats. Although a subsequent investigation revealed that the shooting was a tragic culmination of mistakes and misperceptions,³ the incident served to awaken many Americans to the perils of employing the military for domestic security, a function historically the province of civilian law enforcement personnel.

This essay will briefly review the background of the use of the armed forces in a police capacity, discuss the growth of that role in the 1980s and 1990s, and forecast an even greater expansion into that role in the near future due to the emerging threat of "catastrophic terrorism." It will contend that this increased reliance on military resources for policing is not in the interest of either the armed forces or the public. Finally, it will make some observations with a view towards minimizing the dangers of police-ization of the military while ensuring the Nation's public safety.

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²Joint Task Force 6 is a multi-service organization tasked to provide surveillance for Federal agents in border areas. "While not allowed to make arrests, they have carried out hundreds of observation sorties along the border, passing on information to the Border Patrol and drug-enforcement agents" (Verhovek, 1997:12).

³The Marine responsible for the shooting was never prosecuted (Suro, 1998:3).

BACKGROUND

Americans have traditionally viewed with suspicion the use of the armed forces for any sort of internal security purpose. These misgivings can be traced to the antipathy towards standing armies, which is as old as the nation itself (Kohn, 1975:3-9). English colonists, cognizant of the excesses of Oliver Cromwell's New Model Army during the English Civil War (Fields and Hardy, 1992:9-13; Carr, 1990:82), were wary of the nefarious potential of a professional military used at home. A further catalyst for this nascent antimilitarism arose when Royal troops were employed to suppress the growing independence movement in the Colonies (Fields & Hardy, 1992:25-26).

Resistance to a law enforcement function for military forces hardly diminished following the American Revolution. Indeed, in framing the Constitution, one of the main aims was to limit the role of military forces in domestic activities. The final document provides relatively few authorities for employing the military within the Nation's borders. Article I §8, for example, allows Congress to provide for "calling forth the Militia to execute the Laws of the Union and to suppress Insurrections." Additionally, there is the language of Article IV §4 which requires the federal government to protect the states against invasion and "on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

As is suggested above, the Framers intended that the needs of national defense would be principally served by reliance not upon full-time regulars, but on part-time state-based militias. Even though the militia system seldom worked as originally designed, for much of the Nation's history relatively small professional forces were augmented in wartime by huge increases in recruitment and conscription. Though this ad hoc approach met with mixed success in fighting the nation's wars, it essentially remained in place until threat of the Soviet Union in the 1950s necessitated the maintenance of an enormous peacetime military establishment during the Cold War.

Consequently, there have been relatively few occasions where troops have functioned in what would be considered today as policemen. A major deviation from this norm took place during the Civil War era. Spurred by the Confederate insurgency, martial law was implemented in various areas of the North (Fairman, 1943:108-116). When this exercise of military power extended to the trial of civilians by military commission, the Supreme Court eventually intervened. In the case of *Ex Parte Milligan*,⁴ the Court held that conducting such trials where the civil courts remained open was beyond the powers of the armed forces, despite the existence of a civil war.⁵

⁴ 71 U.S. 2 (1866).

⁵For a discussion of *Milligan* and other cases addressing civil liberties in wartime, see Rehnquist's *All the Laws but One: Civil Liberties in Wartime* (1998).

Nevertheless, in the post-Civil War era federal troops were used extensively to police the South for over twenty years. Again, however, the wisdom of this strategy was questioned, this time by the legislative branch. According to one treatise, "Reconstruction era abuses, culminating in the use of federal troops to police polling stations in Southern States (some say to influence the outcome of the presidential election of 1876) led to the 1878 Posse Comitatus Act" (Dycus, Berney, Banks, and Raven-Hansen, 1990:427). That Act⁶ criminalizes any use of the armed forces to execute the laws except as may be specifically authorized by Congress.

Despite the fact that there has never been a prosecution for a violation of the Posse Comitatus Act,⁷ for the latter part of the nineteenth and all of the twentieth century it served to limit the role of the military in anything resembling ordinary police work (except perhaps in the context of constabulary duties in frontier areas). Of course, throughout U.S. history military forces have been used to enforce civil law against domestic violence, mostly to suppress riots and similar civil disorders; in particular, troops were used on several occasions to counter labor unrest (Engdahl, 1971). But such uses were exceptions to the general rule against the regular use of military force for police-like duties.

That paradigm began evolving in the early 1980s with the onset of the drug crisis. Cognizant of the international dimensions of the drug trade, convinced that local police forces were being overwhelmed by the problem, and impressed with the efficiency and renewed popularity of the armed forces, Congress passed a number of statutes designed to bring military resources to bear on the "war" on drugs. These statutes,⁸ still in effect today, permit the use of military equipment and expertise in support of civilian law enforcement agencies. However, the law still prohibits a military member from "direct participation" in most circumstances in the "search, seizure, arrest, or other similar activity."⁹ Separate legislative authority designates the Department of

⁶18 U.S.C. §1385.

⁷During the siege at Wounded Knee, SD, plaintiffs seeking damages following a stand off with a group of armed Indians argued that the Army and the Air Force were used in violation of the Posse Comitatus Act. The court concluded that although military personnel did furnish advice and equipment, this did not constitute "execution" of the laws in violation of the Act. In dicta, however, the court did observe that uses of the armed forces contrary to the Act could result in a finding that evidence thereby obtained was admissible. *Bissonette v. Haig*, 776 F.2d 1384, aff'd, 800 F.2d 812 (8th Cir, 1986) (en banc), aff'd, 485 U.S. 264 (1988). Thus, litigation involving the Act occasionally appears but in the context of using it as an exclusionary rule, not as the basis for a criminal prosecution itself.

⁸See Chapter 18 of Title 10, U.S. Code.

⁹10 U.S.C. §375.

Defense (DoD) as the lead agency for the “detection and monitoring of aerial and maritime transit of illegal drugs into the United States.”¹⁰

It is important to observe that these strictures do not necessarily limit the authority of state forces – to include the National Guard – unless and until they are federalized.¹¹ This important legal distinction is often lost on the public. Given that the Guard’s uniforms and equipment is virtually identical to that of the regular armed forces, this perception is wholly understandable. Still, the ever more frequent use of Guard personnel for drug operations and other law enforcement functions serves to acclimate the public to the notion of uniformed military personnel performing such duties.

In any event, the end result of almost two decades of statutory change and billions of dollars in budgetary expenditures is the entrenchment of both regular and part-time military personnel in a variety of counterdrug efforts,¹² including JTF 6. In addition, there have been calls to use troops to augment police forces in high-crime, drug-infested urban areas (e.g., O’Neill, 1994:11). Clearly, more than anything else the drug problem has pushed the armed forces into institutionalized participation in law enforcement matters.

Counterdrug activities and the new statutes supporting them have also stimulated much collaboration between police and military forces. This has contributed to the ‘militarization’ of police forces as they incorporate a wide-range of military equipment into their inventories (e.g., *Police Get Gadgets*, . . ., 1998:C4), and turn to the military for advice and training (e.g., Loder, 1994:35). In important ways we are witnessing a problematic convergence of police and military interests.

THE FUTURE

The involvement of the armed forces in what might be considered police or law enforcement activities is poised to increase exponentially in the near future. This is largely because of the growing threat of terrorism. While terrorism has a long history, consciousness of its dangers in the U.S. has risen markedly in the past few years. Bombings at New York’s World Trade Center and Oklahoma City’s Murrah Federal Building underlined terrorism’s potential. Still, as destructive as those events were, they were efficiently investigated and the perpetrators quickly apprehended by law enforcement agencies with little help from the military.

But even greater focus on terrorism was generated by the 1995 attack in Tokyo. In that event a religious cult released the deadly gas sarin in a subway leaving 12 people dead and over 2,500 injured. Such incidents have spawned

¹⁰10 U.S.C. §124.

¹¹The National Guard is a hybrid organization having both state and federal status (Rich, 1994:35).

¹²Jim Garamone, *DoD Actively Supports Counterdrug Efforts*, American Forces Information Service, Nov. 1998, found at www.defenselink.mil/news/Nov1998/n11301998_9811303.html

fear of what is termed “catastrophic terrorism” (e.g., Lewis, 1998:9). This insidious peril is usefully divided into two forms for purposes of this analysis: 1) that involving weapons of mass destruction (WMD), i.e., nuclear, biological, and chemical weapons; and 2) that involving threats to microchip-based information and computer systems so critical to modern societies.

With the new awareness have come new calls to use the armed forces to confront this unprecedented security challenge.¹³ In a sense, the use of the military to confront these perils parallels the rationale for its use in the more traditional domestic role of the suppression of civil disorders and even its newer role in drug interdiction. Specifically, the threats have the potential to overwhelm police resources because of the emerging capability of a relatively small numbers of non-state actors to use WMD to inflict casualties on a wartime scale (e.g., Bayles, 1998:1).

There have been a variety of DoD responses to the threat of catastrophic terrorism. Today, for example, the armed forces operate the Directorate of Military Support (DOMS) in the Pentagon. This organization serves as nerve center for military involvement in all kinds of domestic activities ranging from the “presidential inaugurations and Olympic Games to terrorist bombings and urban riots” (Blazar, 1998:12).

In addition, the Pentagon is responsible for the Domestic Preparedness Program, an ambitious effort to train local police, fire, and medical personnel to deal with the dangers posed by biological and chemical devices.¹⁴ Complementing this effort was the formation of several special military units to counter the WMD threat both at home and abroad (Graham, 1997:1). In addition, the National Guard is organizing 170 reconnaissance and decontamination teams to respond to domestic WMD attacks (Ruppe, 1998:1).

A related but somewhat different dilemma is presented by the threat to the nation’s computer and communications systems. Many experts had long argued that the U.S. was extremely vulnerable to what has been called “cyberterrorism” or “information warfare” (Schwartau, 1996). Recently, the President, following the recommendations of his Critical Infrastructure Protection Commission, sought \$1.4 billion for his Fiscal Year 2000 budget to develop systems to protect the Nation’s banking, electric, transportation, and other critical industries (Harreld, 1999:1).

¹³For example, Section 324(4) of Public Law 104-132 (cited at 22 U.S.C. §2377 note) states that Congress find that “the President should use all necessary means, including covert action and *military force*, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas training facilities and safe havens” (emphasis added).

¹⁴See 10 U.S.C §382. The effort reportedly has met with mixed success (Bayles, 1998:1).

For the U.S. military cyberterrorism is an especially serious problem as it is heavily dependent upon computers for its daily operations, and it relies upon many of the same micro-based communication and electronic systems used by the general public (Office of Under Secretary. . . , 1996). Thus, wholly apart from any abstract desire to aid civilian law enforcement agencies, the armed forces have a very great interest in analyzing and defeating this kind of threat. And that threat is real: during an exercise in June 1997 it was discovered that DoD computer systems were far more vulnerable than had been previously thought.

As a consequence, the Pentagon recently announced the formation of a Joint Task Force Network Defense. This organization currently has the limited mission of defending DoD computers (Wolfe, 1999:1). However, newly-issued Pentagon doctrine suggests that protection of the Nation's information infrastructure is properly a responsibility of DoD (Chairman, 1998).

The enormous scope of the threat of catastrophic terrorism has also generated suggestions for new organizations within the armed forces. Most recently, a plan has been proposed to establish a single military commander with authority to oversee domestic defense in the event of terrorist attack. According to press reports, this "homeland defense" commander "would have the know-how and authority to quickly dispatch technicians and troops who could help deal with terrorist attacks that officials fear could inflict thousands of casualties and disrupt whole cities" (Richter, 1999:3).

THE EMERGING ISSUES

What we have seen in the last twenty years is an increasing police-ization of the military, that is, a growing tendency to look to the armed forces to perform tasks that are, essentially, law enforcement in nature. To many Americans the use of the military for these purposes is of little concern to them. The armed forces consistently lead public opinion polls as the most trusted institution in American society, topping even organized religion and the Supreme Court. Moreover, as John Hillen, then an analyst for the Heritage Foundation, put it in 1996: "Why do politicians want to use the military for police duties? To take advantage of one of the few parts of the federal government that actually works" (Hillen, 1996:2).

Notwithstanding the seeming acquiescence of the public, this growing trend bears further analysis. In truth, there are very few models in modern times where the military effectively conducted a police-like internal security mission consistent with both the maintenance of an authentic combat capability and democratic values. That said, the issues with regard to police-ization of the armed forces can usefully be divided into practical problems and philosophical ones.

THE PRACTICAL PROBLEMS

One of the principal reasons that many military leaders have long resisted employing their troops as police forces relates to the very practical concern that doing so diminishes combat prowess. Despite what the casual observer may think, there are surprisingly few synergies between law enforcement and military missions.

Examining the border shooting incident provides an illustration. There the Marine Corps insisted that the patrol acted in accordance with the “JTF-6 rules of engagement of which include the inherent right of self-defense” (Martin, 1998:1). Though resolution of the specific facts of that case is beyond the scope of this article, it is easy to see how a dichotomy might arise. Military forces operating in a domestic situation where the rules of engagement limit the use of force to “self-defense” situations might still have an interpretation of the scope of the term that differs from that of local police forces. Under military practice force may be used in self-defense to “decisively counter the hostile act or hostile intent and to ensure the continued safety of U.S. forces.” Moreover, under certain conditions, engagement is permitted “until hostile force no longer presents an imminent threat” (Chairman, 1994:EncA).

However, state law, not military doctrine, governs when military forces are acting domestically against civilian suspects outside of a federal enclave. Accordingly, the legal authority to use deadly force in such situations may only be that available to any citizen (as opposed to law enforcement officer) in a particular jurisdiction (Torcia, 1979:§125). Thus, state legal requirements that mandate actions such as “retreat to the wall” before the use of deadly force is permitted¹⁵ are unknown in military practice and unlikely to be well understood by troops in the field.

Indeed, using military forces for tasks that are essentially law enforcement in nature requires a fundamental change in orientation. To put it bluntly, in its most basic iteration military training is aimed at killing people and breaking things. Consequently, military doctrine has forces moving on a target by fire and maneuver with a view towards destroying that target. Police forces, on the other hand, take a very different approach. They have to exercise the studied restraint that a judicial process requires. They gather evidence and arrest *suspects*. Where the military sees *enemies* of the United States, a police agency - properly oriented - sees *citizens suspected* of crimes but innocent until proven guilty in a court of law. These are two different views of the world.

Thus, it is difficult for military personnel trained under a regime that emphasizes combat skills to easily align themselves with the more restrained procedure required for police work in a democratic society. When forced into such situations, military personnel tend to revert to the combat-oriented architecture that they understand and in which they are comfortable operating.

¹⁵See *id.*, §126.

Thus, it is not surprising that, for example, Marine officers would characterize their deployment during the 1992 Los Angeles riots in the military coda of "Domestic Peacekeeping". More troubling, but still comprehensible given their background and training, are reports that some Marines "when faced with violating doctrine or violating federal law...chose the latter course" (Ricks, 1996:21-22).

It is, of course, possible to train military personnel to suppress their previously instilled combat instincts to perform in the more restricted law enforcement environment. However, once military personnel are converted into effective policemen, the very ethos that makes them succeed in combat has been dangerously eroded. The restraint so necessary for law enforcement could be catastrophic in war. Years before the 1997 JTF-6 incident, a colonel observing Marines firing warning shots during a border skirmish with smugglers later argued that "combat-trained Marines shouldn't be diminishing hard-learned skills by squeezing off warning shots" (Torque and Waller, 1990:18).

Even when training succeeds in sufficiently purging military personnel of their combat skills so that they conduct themselves appropriately as law enforcement agents, a significant and costly commitment must be made to *retrain* them *back* into warfighting mindset once those duties are completed. In an era of fewer and fewer troops and more and more commitments commanders are understandably reluctant to do anything that saps combat readiness.

Another factor contributing to the reluctance of military commanders to become involved in law enforcement activities is the potential damage to morale and discipline that may result. It is mistaken to assume that an individual who joins an all-volunteer force such as the U.S. military is necessarily inclined to perform domestic police duties. Quite obviously, if that were his or her personal inclination they would have joined a police force. Moreover, while military personnel may be mentally well equipped to deal with a vicious battlefield adversary, they are rather less prepared to deal with a sophisticated criminal aiming to corrupt them.¹⁶ Military leaders simply do not wish to expose their troops to this kind of influence.

Additionally, military officers also believe that using military personnel for domestic law enforcement purposes carries great potential to harm civil-military relations. It can bring the military in conflict with civilian society and aggravate what many see as a growing estrangement of the military from the society it serves (Ricks, 1996:21-22). The uproar following the shooting in Texas is just one example. This may be one reason why the Secretary of Defense radically narrowed the circumstances under which such armed patrols might take place (Ground Troop..., 1999:1).

¹⁶Indeed, some criminals have succeeded in corrupting military personnel (e.g., Reza, 1998:1).

But it is the emergence of “catastrophic terrorism” that portends the circumstance with the greatest potential to draw military personnel into domestic security situations. On one hand, the immensity of threat necessitates military involvement, especially when WMD is involved, as only the armed forces have the infrastructure and training to meet the challenge of mass casualties. Other, technical aspects of catastrophic terrorism, will likely pull military personnel into law enforcement duties more directly, although *inadvertently*.

Consider the menace of “cyberattack.” It presents a particular conundrum for military officials because of the technical difficulty of distinguishing between assaults carried out by clever teenagers on a lark and those conducted by cyberterrorists and enemy nation-states bent on inflicting grievous damage to U.S. national security. Given that at the time of a particular assault on a DoD computer system it may be impossible to know the identity of the attacker, military personnel could find themselves aggressively responding against a fellow citizen in a manner appropriate to a hostile foreign force, but inconsistent with what an American rightly expects when merely suspected of a crime.

Conceiving of terrorists as criminals entitled to due process is not intuitive to military personnel or, for that matter, the terrorists themselves. Many terrorists and terrorist organizations like to portray themselves as “soldiers” engaged in “wars” against the U.S. and other mainly Western nations. However, both historical and current practice in the U.S. usually characterizes them as common criminals.¹⁷ There are several reasons for this approach, not the least of which is the fact that under international law, lawful combatants in armed conflict are privileged from prosecution for violent acts that are otherwise in compliance with the law of war. In addition, combatants are entitled to POW status if captured.

Terrorists do not ordinarily achieve status as lawful combatants in armed conflict because the international law of war principally governs conflicts between nation-states and certain internationally recognized entities.¹⁸ Though the law of war does apply to certain groups of irregular belligerents, terrorists also ordinarily fail to meet the minimum legal standards applicable to such forces in that they fail to carry arms openly, wear a distinctive uniform or symbol, and subject themselves to internal military discipline aimed at enforcing the law of war.

¹⁷At least one authority contends that some terrorists may also be considered as unlawful combatants in an armed conflict (e.g., Erickson, 1989).

¹⁸This analysis is sourced in both conventional (treaty) law and customary international law (Air Force Pamphlet, 1976:110-31).

In short, though they now may have the capability to inflict cataclysmic damage on the U.S., the magnitude of their crimes does not, *per se*, transform terrorists into something other than criminals. Thus, perhaps the most formidable threat to U.S. interests in the future is, by its very nature, fundamentally a criminal challenge, albeit of unprecedented dimensions. This presents significant philosophical issues.

THE PHILOSOPHICAL ISSUES

To be sure, philosophical reservations about the involvement of military personnel in law enforcement activities did not arise solely with the emergence of the challenge of catastrophic terrorism. Much concern has been expressed over the years about the military's drug control activities, and this uneasiness continues. Former secretary of the Navy John Lehman wrote recently of the military's role in drug interdiction that "by accepting that new (and I believe unconstitutional) mission, the services have become de facto police. To involve the services in domestic law enforcement is to cross a dangerous line in separation of powers" (Lehman, 1998:24; parenthetical in original).

In this connection it is worth remembering that the genius of the traditional American law enforcement system is that most police power is diffused among thousands of communities. Most of these more or less independent police agencies are subject to strict control by elected leaders at the local or state level. The civilian control of the military, however, is centralized in the President and national command authorities in Washington (Wisotsky, 1993:17,19). This system works well when confronting a foreign threat, markedly less well when employed domestically to interact with the citizenry where force of arms is seldom the appropriate or necessary law enforcement tactic.

The troublesome potential of the enhanced role of the military in counter-terrorism is generating the most criticism. Former Secretary of Defense Caspar Weinberger condemned the proposals by saying that they were "repugnant to democratic society" (as quoted by Kellman, 1995:6). Though there are no current plans to expand military authority into direct law enforcement (e.g., arrest/search authority), it is difficult to see how that could be avoided in a situation that would likely border on mass chaos.

The previously discussed proposal to appoint a single military commander for a "homeland defense" organization to handle such situations causes one critic to warn about the risk of "mission creep." Gregory T. Nojem, legislative counsel on national security for the American Civil Liberties Union, says, "The danger is in the inevitable expansion of that authority so the military gets involved in things like arresting people and investigating crimes.... It's hard to believe that a soldier with a suspect in the sights of his M-1 tank is well positioned to protect that person's civil liberties" (as quoted by Broad and Miller, 1999:1).

CONCLUDING OBSERVATIONS

Obviously, those concerned with both civil liberties and domestic security are rightly apprehensive about the outcome of the current debates. One important step in setting the right course for the future would be establishing a clear definition of the kinds of threats manifesting a true national security threat, and those which present a law enforcement problem recognizing, of course, that overlap can occur from time to time.

In considering this issue, it may be helpful to recall recent experience. As discussed above, during the 1980s and 1990s there was a major effort to transform the national drug issue into a national security threat suitable for the application of military force. Though military intrusion in what was essentially a law enforcement problem did grow, it fell short of full police-ization of the armed forces.

Today, we face another peril, that of catastrophic terrorism. The nature of this threat, if characterized as a national security risk, carries great potential to force that next step. No one should suffer the illusion that military forces could ever execute the laws with the same sensitivity to civil liberties as regular police forces. To do so is at odds with the central imperatives of military service. Moreover, a successful policization of the armed forces may well render it incapable of defeating authentic external military threats.

What does the future hold? Secretary of Defense William Cohen warned in 1997 that “terrorism is escalating to the point that citizens of the United States may soon have to choose between civil liberties and more intrusive forms of protection” (as quoted in Pexton, 1997:3). That may be so, but employing military forces for internal security purposes will surely exacerbate it. Confronting terrorism requires, among other things, an intensive intelligence effort and aggressive investigative work. A military organization adept at destroying targets and undermining enemy command and control structures is not necessarily the best organization to do such work in a democracy.

It must be pointed out that in the American experience any effort at police-ization of the armed forces almost always arises from outside the military establishment. In the case of catastrophic terrorism, the lack of any immediate alternative complicates short-term solutions. In reporting the proposed terrorism-adapted “homeland defense” force, the *Washington Post* captured the essence of the dilemma:

“Frankly, we are not seeking this job,” said Deputy Secretary of Defense John Hamre. He acknowledged that “most Americans” are “apprehensive” about the military getting involved in domestic policing and crisis management. “But we know we’re being asked to be involved because we have

the only part of government that has the resources that can be mobilized," he added (Graham, 1999:2).

A recent article in *Foreign Affairs* proposed a program for combating catastrophic terrorism that will require some of the intrusiveness about which Secretary Cohen warns and Deputy Secretary Hamre recognizes (Carter, Deutch, and Zelikow, 1998:80). Still – except for certain aspects of the draft National Terrorism Intelligence Center – it carefully excludes DoD from most activities in the law enforcement realm. (DoD would, however, have a large role in consequence management and preemptive and retaliatory strikes.) Similarly, a Justice Department proposal to take the lead from DoD in counterterrorism preparedness by 2001 appears to be the direction the evolution should take (Justice Department Poised ..., 1998:14).

Such proposals have real potential. However, considerable work is required for implementation. As these and other ideas are considered, it is vital that inertia and the penchant for quick-fixes not allow responsibility for countering catastrophic terrorism to permanently devolve to the armed forces. The risks of doing so are very great, and we should not be seduced by absence in modern times of significant abuses by the armed forces. The stakes are very high. As Colonel Harry G. Summers, a decorated Army veteran and expert on national security affairs, warns:

Like using fascism as a cure for the Great Depression, the involvement of military forces in civilian law enforcement could prove to be a greater assault on our democracy than any terrorist bombing, for it could destroy that democracy's very foundations (Summers, 1995:17).

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