

THE U.S. ARMY AND DOCTRINE FOR WEAPONS OF  
MASS DESTRUCTION: CONSEQUENCE  
MANAGEMENT OPERATIONS

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by

SEAN M. JENKINS, MAJOR, USA  
B.S., United States Military Academy, West Point, New York, 1988  
M.B.A., Embry-Riddle Aeronautical University, Daytona, Florida, 1998

Fort Leavenworth, Kansas  
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THESIS APPROVAL PAGE

Name of Candidate: MAJ Sean M. Jenkins

Thesis Title: The U.S. Army and Doctrine for Weapons of Mass Destruction:  
Consequence Management Operations

Approved by:

\_\_\_\_\_, Thesis Committee Chairman  
LTC Donald L. Alsdurf, M.A.

\_\_\_\_\_, Member  
Harold S. Orenstein, Ph.D.

\_\_\_\_\_, Member  
LTC Tabor W. Tritschler, M.S.

Accepted this 4th day of June 1999 by:

\_\_\_\_\_, Director, Graduate Degree Programs  
Philip J. Brookes, Ph.D.

The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

## ABSTRACT

THE U.S. ARMY AND ITS DOCTRINE FOR WEAPONS OF MASS DESTRUCTION: CONSEQUENCE MANAGEMENT OPERATIONS, by MAJ Sean M. Jenkins, USA 89 pages.

As the nuclear threat between the United States and the Soviet Union has diminished, new threats now face the nation. The end of the Cold War world brought with it the unleashing of rogue states and terrorist organizations that no longer feel constrained by the superpowers. Coupled with the release of technology worldwide, no nation is risk free from attack on its own soil. While the threat of terrorism in of itself is not new, the threat of the use of weapons of mass destruction (WMD) on American soil creates a new risk to national security.

Tasked by Congress, the Department of Defense developed programs and capabilities to deal with consequences of a WMD attack on US soil. This study conducts an analysis of the US Army's current WMD consequence management operations doctrine. The analysis is based on a model developed by Colonel Dennis M. Drew, a former Air Force officer who wrote numerous books and articles concerning military doctrine and strategy.

The results of the analysis point to many shortcomings in current Army doctrine. Recommendations are provided to better prepare the Army to fulfill its role in consequence management operations.

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## LIST OF ABBREVIATIONS

AAR	After-Action Review
ACOM	Atlantic Command
CALL	Center for Army Lessons Learned
CIA	Central Intelligence Agency
CINC	Commanders in Chief
CJCS	Chairman, Joint Chiefs of Staff
COC	Chain of Command
DIA	Defense Intelligence Agency
DoD	Department of Defense
DOMS	Director of Military Support
EOC	Emergency Operations Center
FEMA	Federal Emergency Management Agency
FM	Field Manual
FUNCPLAN	Functional Plan
FBI	Federal Bureau of Investigations
JP	Joint Publication
MSCA	Military Support to Civil Authorities
MTP	Mission Training Plan
NMS	National Military Strategy
NSC	National Security Council
NSS	National Security Strategy
PDD	Presidential Decision Directive

RAID	Rapid Assessment and Initial Detection
ROE	Rules of Engagement
TTP	Tactics, Techniques, and Procedures
WMD	Weapons of Mass Destruction

## CHAPTER 1

### INTRODUCTION

The security environment we face includes threats to our country and our interests that are not “war” in the classical sense, and yet may call for military forces. Terrorists, weapons of mass destruction, illegal drug trafficking and other threats at home . . . require the use of military forces. (NMS1997, 4)

The fall of the Soviet Union in December 1991 brought about significant changes for the United States’ armed forces. A single, monolithic threat had all but disappeared. Gone are the days of the easy identification of enemy tactics and capabilities. When the dust cleared from the fall of the Berlin Wall, the U.S. Army emerged as the unrivaled elite military ground force in the world. In the absence of any comparable adversary, Cold War policies changed towards a new strategy of fighting many smaller conflicts simultaneously.

The United States was now truly no more secure than before the fall of the Soviet Union. It was as if the multitude of organizations that hold animosity towards the United States was given the green light to pursue their independent goals. While the United States had experienced the effects of such groups before, terrorism had never occurred with such magnitude and force on U.S. territory. Compounding the problem was the proliferation of highly destructive technologies. Rogue organizations that previously relied on hijackings and car bombs as a means of action now had the capability to conduct operations with strategic implications. Nanotechnology and biological and chemical weapons blueprints were available on the open market. Small, once inconsequential groups now had the information and capability to terrorize the world with weapons of mass destruction (WMD).

Imparted by operational and strategic predictions and consequences, Congress published the following finding in the Fiscal Year 1997 Defense Authorization Act:

The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously . . . the threat to the citizens of the United States by (such) weapons delivered by unconventional means is significant and growing. (Defense Authorization Act 1996)

Federal policy and guidance historically have been incomplete and imprecise. Despite Presidential and Department of Defense (DoD) directives, a question must be addressed; have proper resources and capabilities been properly combined to react to the threat of WMD? In 1993 terrorists successfully bombed the World Trade Center; that bomb contained cyanide gas. Thankfully for the citizens of New York, the blast of the explosion vaporized the cyanide. Will a terrorist make this mistake again? Will the Army be able to react to a similar chemical attack today? Will the U.S. Army be called to support the operation? What doctrine will U.S. Army soldiers follow if they deploy to support such an operation?

This final point is the most significant; the fact that there is no “approved” doctrine must be addressed in order to better prepare for future WMD operations. “Doctrine is the institutional body of knowledge that military forces use to accomplish their assigned missions. In that doctrine, commanders search for a method in which to effectively operate and accomplish the mission successfully” (Weimer 1997, 3). Today’s Army comes to the domestic battlefield with its wartime doctrine, tools, rules of engagement (ROE), and authority granted to it. For some units, such as military police, psychological operations, civil affairs, or engineers, the transformation of skills may be almost transparent. However, to the bulk of the forces deployed (combat arms), the

transformation is anything but transparent. As unique situations have presented themselves in the past, commanders have adjusted and compensated in order to complete the mission. A question begs to be asked: is this the way we as an Army wants to operate? Will the U.S. Army be able to effectively react to a “catastrophic” incident? What rules of engagement will the U.S. Army follow?

### **The Thesis Statement**

As the threat of the use of weapons of mass destruction (WMD) grows domestically into the twenty-first century, what doctrinal developments can be made to better prepare the Army to support the nation?

### **The Research Question**

What will the impact of the growing threat of weapons of mass destruction in the domestic arena have on the Army?

### **Subordinate Questions**

In order to answer the primary question, three subordinate questions must be considered. First, it must be determined what legal issues govern the present and future use of federal forces within the confines of the national borders. Current documents and publications from the national and Army level have set the stage for an increase in domestic operations. Do changes need to be made to existing laws? Do new laws need to be written?

Once this is determined, it should provide a litmus test for the second subordinate question: What will be the trend for the future use of the U.S. Army in support of the

threat and possible use of WMD? While somewhat theoretical, what does the Army see as its future roles? How do the executive and legislative branches of the government envision the Army's being deployed to support such operations?

Understanding this will help in determining the answer to the third and final subordinate question: Does the doctrine the Army follows today support the use of the Army in response to the threat and use of WMD? Currently the Army trains to win the nation's wars; as such commanders train their units to defeat the enemy. Will this doctrine support the myriad of tasks units may be called upon to execute? The combined conclusions from these questions will result in a coherent view of the possible answers to the research question.

### **Context of the Problem and the Research Question**

There is no doubt that the U.S. Army will have an ever-increasing role in supporting domestic operations. What portion of the domestic role will focus on WMD? As the President wrote in the 1998 National Security Strategy for a New Century, "We must continue to move strongly to counter growing dangers to our security: WMD, terrorism, and international crime" (Weimer 1997, 9). This is not limited just to terrorist acts; however, the emphasis is clearly on those types of incidences.

The history of the use of federal troops within the national boundaries is a long and interesting one. The "colonial fear" of a standing Army marching through the streets of America still exists in some form today. The Posse Comitatus Act of 1878, which remains in force today, restricts the use of federal troops within the nation (Beres 1998, 31). The act "prohibits the use of federal military forces to enforce or otherwise execute

laws *unless expressly authorized by the Constitution or Act of Congress* (emphasis added)” (JDE 1996, 587). While the executive and the legislative branches of government have the constitutional authority to employ federal forces within the boundaries of the nation, they are not quick to do so. Statutory exceptions to the Posse Comitatus Act allowing federal forces to be employed in response to civil disturbances are included in Title 10 of the United States Code, Sections 331 to 333. U.S. troops have been deployed to quell riots, such as those in the wake of the 1992 Rodney King verdict in Los Angeles, and numerous times in the 1960s to protect property and persons during the anti-war protests. In 1992, both the 10th Mountain Division and the 82nd Airborne Division were deployed to south Florida to support government agencies in the cleanup of Hurricane Andrew. Troops have supported law enforcement agencies in the siege of the Branch Davidian compound in Waco, Texas, in 1994. What laws will cover a response to the threat or use of WMD? While the Army recognized that the legal ramifications are great for any commander, the Army also realizes that they must be prepared to execute such missions. What other agencies besides the Army have the capability to respond?

Many in government today believe that with an increase in training and technology those incidents involving terrorism and the use of WMD can be prevented prior to their employment. Many capabilities exist within the federal government and its agencies both to uncover threats before they happen and to minimize the effects of those that unfortunately occur. We as a nation can be prepared to react to their use in order to prevent the loss of further life and property damage. Too many people have been killed

and injured in the bombing of the Oklahoma Federal building in 1995 and the New York City World Trade Center bombing in 1993 to ignore the facts.

Accepting these facts, we predict the U.S. Army will be deployed, in some manner, to execute these missions. How will the Army prepare for them? Current Mission Training Plans (MTPs) for units from company to brigade make no mention of domestic WMD operations. Does the Army deploy and patrol the streets of Los Angeles as they did in Operation Just Cause in Panama? How do units handle mass casualties and rioting? Does the Army open fire on the rioting people? How long will the mission be a success if the Army has U.S. soldiers killing American citizens? What kind of rules of engagement will be enforced?

The *National Military Strategy* states the importance of being prepared for transnational threats.

***The security environment is further complicated by challenges that transcend national borders and threaten national interests. Human emergencies other than armed conflict: extremism, ethnic disputes, and religious rivalries; international organized crime, including illegal trade in weapons, strategic materials or illicit drugs, as well as piracy; massive refugee flows; and threats to the environment each have potential to put our interests at risk. (NMS 1997, 9)***

Despite this fact, doctrine has not changed. The lessons learned from New York only exist in print in after-action reviews (AARs) and Center for Army Lessons Learned (CALL) manuals. No change has taken place at the training centers or at the brigade level and below. Unfortunately, the Army prefers to have a reactive approach to such operations. While not professing that the military ignore the go-to-war preparation, is the Army not putting soldiers and civilians lives at risk by not preparing for these types of

operations? Does the Army need to simply add additional training to an already full plate of training tasks or must the Army first address the doctrine by which they intend to fight on the domestic battlefield? Either way, one must remember the effects that the downsizing of the force and reduced training dollars have had on the force.

## **Definitions**

It is important to ensure the understanding of terms that will be used in this thesis.

*Consequence management.* This term “describes ways and means to alleviate the short- and long-term physical, socio-economic, and psychological effects of a chemical, nuclear, or biological attack” (NMS 1997, 9). Consequence management concerns the actions taken after the event has occurred. Crisis management in this sense has failed to discover the threat. The terrorists or perpetrators have been successful in the employment of their weapon(s).

*Crisis response.* “Crisis response refers to instances where the perpetrators of an assault have been discovered before an actual release: there could be one or more ‘devices’ to be rendered safe as a result of uncovering the plan or neutralizing the terrorists” (Seiple 1997, 119). Crisis response may include, for example, precision strikes, emergency support to civilian authorities, or a major employment of overwhelming force to resolve the situation.

*Disaster control.* “DoD measures taken before, during, or after hostile action, or natural or man-made disasters to reduce the probability of damage, minimize its effects, and initiate recovery” (FM 100-20 1996, G-5).

*Disaster relief.* “Aid in recovery from natural or man-made catastrophe” (FM 100-20 1996, G-5).

*Doctrine.* The Department of Defense (DoD) defines military doctrine as “fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives. It is authoritative but requires judgement in application” (JP 3-08 vol. I 1996, G1-6). Doctrine describes how military forces consider the application of basic principles of war and operations other than war and the influences, conditions, and circumstances in which they anticipate being called upon to operate (FM 100-5 1993, 1-1).

*Weapons of Mass Destruction (WMD).* This term describes “weapons that are capable of a high order of destruction and/or of being used in such a manner as to destroy large numbers of people. Can be nuclear, chemical, biological, and radiological weapons, but excludes the means of transporting or propelling the weapon where such means is a separable and divisible part of the weapon” (JDE 1997, 733). The killing power of these weapons is not necessarily their greatest effect. The strategic, psychological, operational, and political impacts of their use can have worldwide strategic ramifications.

## **Limitations**

A major limitation of this research study is the sensitivity and classification of much of the research and documentation material. The federal government can withhold material due to the classified nature of past and current domestic operations. It is my intent to proceed without the use of such material. Doing so will facilitate the actual

research conducted and limits any risk to sensitive material being compromised.

Additionally, keeping the document unclassified will make it available to a much larger audience.

### **Significance of the Study**

The use of federal U.S. Army forces on American soil can have significant consequences for the social and political atmosphere of the country. Continued research is essential to ensure that the use of such forces is in line with national interests.

The use of federal U.S. Army forces in WMD operations will affect the training of the force. In the past eight years numerous intra-CONUS deployments have pulled units out of their go-to-war training to support alleviation of natural disasters and civil disturbances. Increased exercises and deployments will only degrade units further in their preparation for war. No one knows what the long-term effect of such operations will be on the overall preparedness of the Army and the nation as a whole.

No one will argue that the Army's mission is to protect the nation. However, to what extent can the Army degrade the ability to fight the nation's wars and still be an effective force on the battlefield when called? Should the Army be divided so that some forces are trained and prepared for domestic operations only? Should the National Guard and possibly part of the Reserve force be restructured to facilitate augmentation of civilian authorities? In this context, it is imperative that further research be conducted concerning this topic. Only with the correct doctrine and balance of training can the U.S. Army expect to answer the call both domestically and overseas and still be effective.

## **The Research Topic**

The subject of the use of federal U.S. Army forces has gained new momentum in both the executive and legislative branches. The Stafford Act of 1984 (amended in 1988) guarantees the use of federal forces in the domestic realm (JDE 1997, 734). In the wake of the Los Angeles riots in April 1992, the World Trade Tower bombing in 1993, and numerous natural disasters, the sight of federal forces deployed within the confines of US borders has become more familiar to, although not necessarily accepted by, American citizens.

The U.S. Congress and the current administration have enacted new policies (to wit, The Antiterrorism and Effective Death Penalty Act of 1996, and The Presidential Decision Directive 25). The Department of Defense has allocated additional resources and developed a new Functional Plan (USCINCCOM FUNCPLAN 2501-97, "*Military Support to Civil Authorities [MSCA]*") in support of the new policies. Currently, the U.S. Army is the lead service in the Department of Defense tasked with developing new procedures and recommendations for improving responses to domestic operations.

## **Assumptions**

My proposed research assumes that the *National Security Strategy* will continue to direct the use of federal U.S. Army forces for intra-CONUS domestic support operations, to include response to WMD. Recent global events have driven the Executive Branch to direct the military (U.S. Army) to examine plans, forces, training, and doctrine that will determine our current capability to respond to such a threat. The military is the only institution that has the capability and technology to wage such a battle. Changes in

U.S. Army doctrine, training, and force structure may be required to meet this need.

Coordination with other federal agencies (FBI, CIA, DIA, etc.) and international agencies is always assumed.

### **Thesis Organization**

The remaining four chapters of this thesis will address the subject in an orderly and objective manner. Chapter 2 will review current literature available on the topic. Chapter 3 will be dedicated to describing the research methodology and analysis of current doctrine. The chapter will address each of the three subordinate questions and, hence, support the answering of the research question. Chapter 4 will analyze the data and information collected. This chapter will bring forth conclusions based on findings in the three previous chapters. Chapter 5, the final chapter, will conclude the thesis by making recommendations for changes (if needed) concerning the topic and for further research to be conducted (if deemed necessary).

## CHAPTER 2

### CURRENT REVIEW

The use of weapons of mass destruction by terrorists is a relatively new concept. Since the breakup of the Soviet Union in 1991, the alignment and, hence, perceived control over the actions of rogue nations and factions have been lost. Today, more than ever, the probable and eventual use of such weapons is on the forefront of nations' concerns everywhere. Much of the relevant work can be divided into four categories: (1) the history of weapons of mass destruction use by terrorist organizations; (2) understanding weapons of mass destruction; (3) literature describing what types of terrorist organizations and groups have the capability and wherewithal to use WMD; and (4) military and government regulations, plans, and policies, and predictions for future use of such weapons.

Publications are numerous and range among media publications, government documents, military writings, and Internet web pages, to scholarly writings.

### **Background of Weapons of Mass Destruction**

While the history of weapons of mass destruction covers a short time span, there are a few published texts that will provide a great base of understanding. Unfortunately, much of what one finds concerning this area is government published documents. Only recently did nongovernmental organizations begin to publish material concerning weapons of mass destruction. Today one can find numerous web pages sponsored by news agencies, public and private companies, and even other countries on the Internet.

Despite the increased publicity, the topic is attracting, most of the information found useful came from the following two documents.

Presidential Decision Directive 39 (PDD/NSC 39) provided an in-depth look at the guidance given to governmental agencies regarding crisis and consequence management. The document, though somewhat dated (1995), was written in response to the sarin gas attack in Tokyo and the Oklahoma City bombing. It provides a first look at the “ground-breaking” steps taken to develop policy where none existed.

Presidential Decision Directive 62 (PDD/NSC 62) outlines the policy and responsibilities for federal agencies in responding to terrorist acts involving weapons of mass destruction. The document assigns the Department of Justice, acting through the FBI, as the overall lead agency in operational response to a weapons of mass destruction incident. This information is important in understanding the command relationship for U.S. Army commanders if employed for crisis or consequence management.

## **Weapons of Mass Destruction Literature**

The topic of weapons of mass destruction continues to gain momentum both in public and private circles. It is imperative to answer the research question that one have a grasp of the perceived threat, and the plans and policies to combat that threat.

Government documents and reports continue to provide the essential information necessary to draw sound conclusions as to our nation’s capabilities to respond to a WMD attack. As mentioned above, the Internet is teeming with information on the topic.

Personal and organizational views on the topic span the entire spectrum of thought.

While all of these viewpoints were not considered in the initial chapters of this thesis,

they will provide valuable insight in the fourth chapter; the analysis of the research question. If nothing else, many of the viewpoints found on the topic, though one may consider them infeasible at this time, may lead to recommendations for further study. It is important to emphasize that there is no quality control over information on the Internet. A close examination of unofficial sites pertaining to WMD should be conducted before accepting the information as accurate.

The *Department of Defense Report to Congress: Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction* (May 1997) is the most current and comprehensive report (unclassified version) concerning the research question. The report is instrumental in the identification of current federal policies and proposed actions. Most significantly, the report identifies four specific issues: the assessment of the types and characteristics of chemical and biological threats; the identification of training shortfalls, equipment and other requirements for first responders; a present plan for DoD assistance in equipping, training, and providing other necessary assistance for first responders for specific incidents; and the identification of chemical/biological warfare information, expertise and equipment that could be adapted to civilian application.

The *Report to Congress on Response to Threats of Terrorist Use of Weapons of Mass Destruction* (31 January 1997) provides the most critical review of the current Defense Department's preparedness to respond to the use of such weapons. The report provides an excellent overview of the national capabilities to respond to this threat. The report, while somewhat dated, analyzes the national response in terms of crisis

management and consequence management. The report provides an excellent base of requirements and responsibilities for the Department of Defense.

Lieutenant Colonel Michael T. Brown (U.S.A.) wrote an Army War College paper titled, *Terrorist Use of Weapons of Mass Destruction within the United States: Asymmetric Warfare Paradigm in the 21st Century* (24 March 1997), in which he reviews the U.S. Government's responses to terrorism and WMD. His report reveals a "fragmented framework that addresses these threats separately, without one federal agency in the lead." The report provides great insight into the difficulty of the development of a comprehensive doctrine for the Army.

Colonel George M. Birdsong's U.S. Army War College paper, *Weapons of Mass Destruction—Terrorist Use and the State of Domestic Response* (31 March 1997), focuses on the growing threat of WMD and the potential of terrorist use on U.S. soil, and the nation's ability to respond to and recover such weapons before their use. The paper provides a brief background and discussion of the topic. Most significantly the author provides great insight into what is required to both counter and react to the WMD threat. The author's conclusions are applicable and will be discussed in Chapter 4 of this thesis.

#### Threat Literature

The amount of unclassified relevant and up to date threat literature found on the topic is limited. Nevertheless, it is important to understand the threat the country faces in order to answer the research question. Despite this problem, many texts and manuals provide enough information for the purpose of this thesis on the types of munitions that the country may face. While understanding the threat down to the individual organization and its employment methods would be useful, it is not necessary for the

discussion of consequence management. Furthermore, such information would pertain more to the discussion of crisis management - stopping the act before execution.

The *Security Intelligence Sourcebook* (1993), by Frank G. McGuire, provides the reader with an in-depth look at terrorist organizations throughout the civilized world. McGuire does not limit his discussion to external forces, but does a good job covering domestic groups. While the text is specifically oriented towards the broader subject of terrorism in general, it does give a good insight into the elements that threaten the United States. Specifically, this text describes the capabilities and tactics of many of the world's renowned terrorist organizations. This text is extremely useful in identifying current trends in terrorism and anticipating how such groups might employ weapons of mass destruction. Such information is critical in developing a crisis management posture for the federal government and, if required, the U.S. Army.

*Patterns of Global Terrorism* (1997), a U.S. State Department annual publication, is the premier government report on current terrorist threats to the world. The report fails to make mention of domestic terrorist organizations that may have the capability to use or develop weapons of mass destruction. Much like the text mentioned above, this report is extremely useful in identifying capabilities and tactics of terrorist organizations. The report will benefit any organization attempting to develop crisis and consequence management programs.

## **Military Doctrine**

As stated in Chapter 1, this paper is concerned with the analysis and determination of the adequacy of current U.S. Army WMD consequence management

doctrine. The following documents provided a thorough review and analysis of the standing U.S Army Weapons of Mass Destruction doctrine.

Joint Publication 3.0, *Doctrine for Joint Operations*, and 3.07.2, JTTP for *Antiterrorism*, were important in establishing the roles and requirements of the Army in this area. Army Field Manual 100-19, *Domestic Support Operations*, an Army doctrinal manual, is limited in its discussion of the topic. The manual provides substantial information and shows a sizable void in the discussion of information that will be necessary in the analysis and assessment of current and proposed doctrine.

### Case Studies

I was unable to locate a definitive case study that encompasses the entire spectrum of response to the threat of weapons of mass destruction. However, those case studies found concern one or more of the categories listed above. In each case I have attempted to reinforce each case study by a government report(s) and other media, such as internet web pages, concerning terrorism and news organizations reports.

Lieutenant Colonel Melvin G. Spiese (U.S.M.C.) wrote a School of Advanced Military Studies monograph titled, “The National Guard and Homeland Defense” (1998). In reference to weapons of mass destruction he convincingly argues that “DoD’s present concept for preparedness and response is not adequate to provide long-term, comprehensive defense” (Spiese 1998, ii). His proposal of tasking the National Guard to provide this defense is indispensable in establishing theoretical doctrine for the U.S. Army.

Major Denise A. Delawater (U.S. Army) wrote a Master of Military Art and Science thesis titled, “Nuclear Weapons. Proliferation, and Terrorism: U.S. Response in

the Twenty-First Century” (1998), that was significant in highlighting the current threat of weapons of mass destruction and possible U.S. options in reacting to their use. The thesis provides an excellent discussion of how critical the current situation is for the United States. Her analysis of possible options to the proliferation of weapons of mass destruction sheds light on possible doctrinal developments that could reinforce the current crisis management programs.

Despite limited information in particular areas, there are enough resources available to conduct the research for this thesis. The breadth is sufficient to identify the current situation and desired result of WMD involving the U.S. Army. The remainder of the thesis will focus on the analysis and evaluation of current WMD doctrine.

## CHAPTER 3

### RESEARCH METHODOLOGY

The American people have come to expect Army support during times of critical need. Combat readiness, combined with organizational mobility, permits the Army to respond rapidly to crisis situations (FM 100-5 1993, 5-1).

In order to answer the research question the three subordinate questions listed in the first chapter must be answered. They are: What legal issues govern the present and future use of federal forces within the confines of our national borders? What will be the trend for the future use of the U.S. Army in support of the threat and possible use of WMD? Does the doctrine the Army follows today support the use of the Army in response to the threat/use of WMD? This chapter details information necessary to answer the three subordinate questions.

#### Legal Underpinnings

Since the end of the Cold War the U.S. Army has been tested across the entire spectrum of operations, from combat operations in Operation Desert Storm to humanitarian relief operations in Haiti, Iraq and Rwanda, to name just a few. Many of these operations received intense scrutiny from the homefront, to include constant press coverage. It is easy to forget the number of operations conducted within the confines of the borders of the United States. Disaster relief operations and military support to law enforcement, to include the war on drugs, have been successfully conducted, with some still ongoing (Lujan 1997, 82).

Looking to the recent past, one may quickly surmise that the trend established over the past few years will continue, and may even increase. As the Army continues to search for a new focus in the post-Cold War era, the use of available military forces for

domestic operations has gained popularity. This being so, or possibly so, it is all-important that the Army maintains the legal framework established by the Constitution and federal law. Maintaining this framework is crucial to the success of the operation and to the public's positive view of its Army. It is imperative that our leaders, political and military, understand the legal underpinnings of these operations. To many people today, once the use of federal troops is mentioned as a possible solution to a problem or disaster within the confines of the United States, the term Posse Comitatus quickly comes to the forefront.

The Posse Comitatus Act of 1878 prohibits the use of federal troops from enforcing civil and criminal law within the United States without Presidential approval. For example, the President of the United States has the authority through executive order, which is in accordance with his Constitutional powers, to use federal troops to quell domestic violence. One need only look back to the use of the 7th Infantry Division during the riots following the Rodney King verdict. Federal forces patrolled the streets, protecting persons and property. The federal forces, under the constraints of Posse Comitatus, were allowed to detain, but not arrest or serve warrants on the civilian population. Additionally, the division acted in support of local law enforcement, thus upholding the premise that Posse Comitatus "is the clear demonstrable indicator of the properly circumscribed limits of a civilian-controlled army in a representative democracy" (Lujan 1997, 83). A copy of the Posse Comitatus Act is provided in Appendix A for further clarification.

The Posse Comitatus Act does not stand alone in permitting or restricting the use of federal forces within the borders of the United States. There are unique instances

where the Posse Comitatus Act may not apply. The use of federal troops, as an example, may be legal in the role of restoring public order. Upon a request for assistance from a state governor to receive help in quelling insurrection and domestic violence, the President issues a proclamation identifying the breakdown in public order. The President orders the rioters to disperse. If it is clear that the order to disperse has been ignored, the President may then order the Secretary of Defense, in consultation with the Attorney General, to put an end to the insurrection and restore order. “The presidential authority to use federal troops is plenary and not subject to judicial review” (Lujan 1997, 89). Such was the case in the Los Angeles riots. President Bush ordered the employment of the 7th Infantry Division to the city to support civil authorities in reestablishing public order. Support by federal troops ends when the emergency ends.

In 1984 the U.S. Congress passed the Robert T. Stafford Disaster Relief Act. The act was amended in 1988 and thereafter referred to the Stafford Act, listed as 42 U.S. Code Section 5121 et seq. “This act is only applicable within the United States and its territories, and comes into play when a state, usually through its governor, requests the presidential declaration of a state of emergency following a natural disaster” (Lujan 1997, 89). Once the President declares the state or area as a state of emergency, active-duty troops can be employed to respond to the emergency and in support of the civilian authorities. Federal troops would remain under military control but fall under the Federal Emergency Management Agency (FEMA) during such a deployment (see figure 1). The USCINACOM FUNCPLAN 2501-97 consequence management chain of command is shown here as an example.

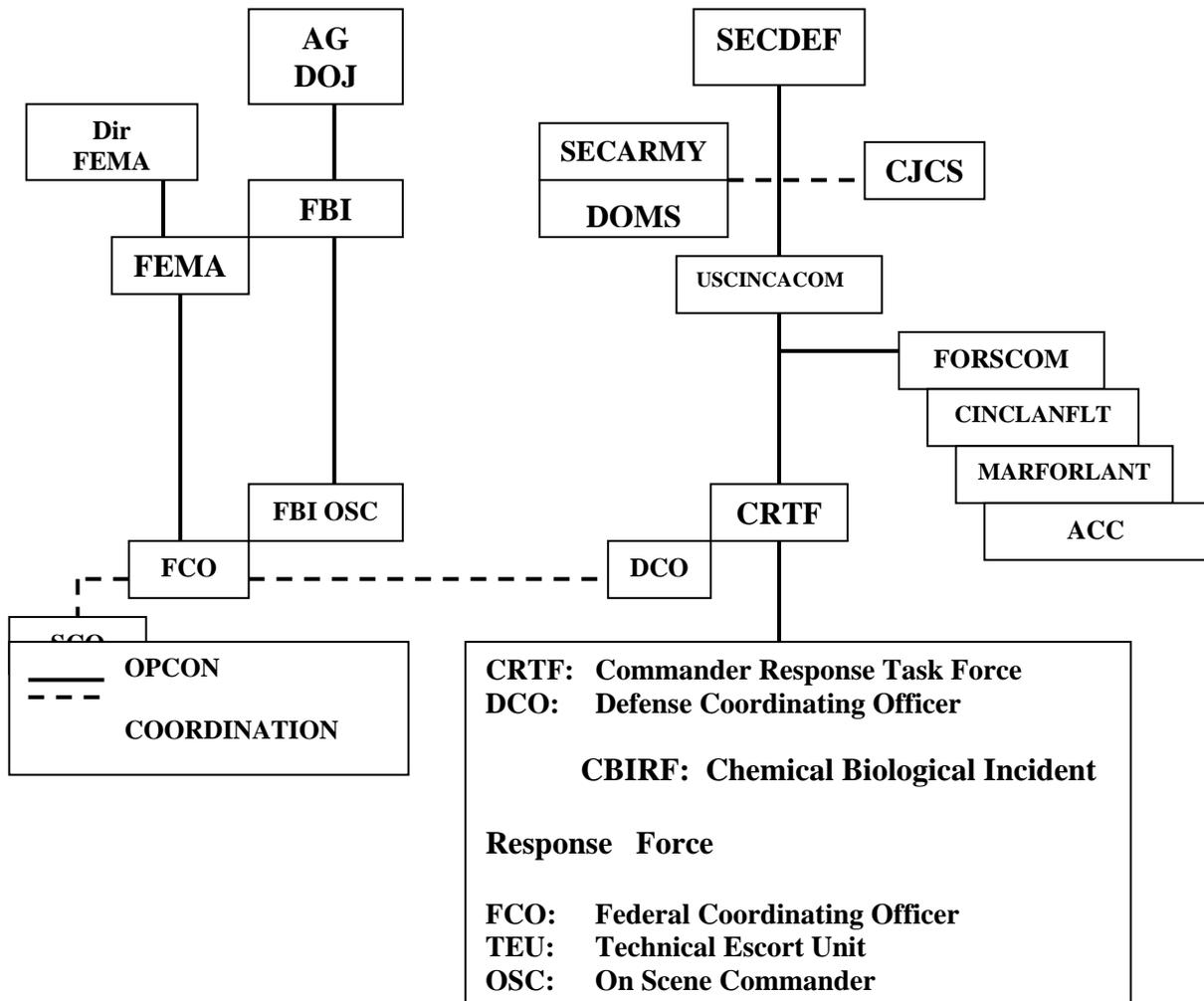


Figure 1. USCINACOM Consequence Management COC

Even though the deployments discussed and alluded to are conducted lawfully, certain situations may present legal problems. Chapter 4 will examine those specific situations that may arise during the employment of federal troops in support of consequence management operations.

#### Future Trend

The future trend of U.S. Army involvement within the confines of the United States for consequence management operations is a reality. Presidential Decision Directives, Department of Defense documents, and numerous other documents have provided explicit guidance to the Army. While chapter 4 will analyze this guidance, it is

without a doubt that the eventuality, domestic operations, is here. It is not within the scope of this thesis to mention each and every policy or document that has been written by the U.S. Government and the Department of Defense pertaining to the future trend of Army Domestic Operations. The pertinent documents will, however, be mentioned.

What the Army knows today as “homeland defense” and the roles of crisis management and consequence management originated in the wake of the bombings of the World Trade Towers in New York City in 1993 and the Alfred P. Murrah Federal Office Building in Oklahoma City, Oklahoma on 19 April 1995.

The Defense Against Weapons of Mass Destruction Act of 1996, sponsored by Senators Nunn, Lugar, and Domenici, “mandates the enhancement of domestic preparedness and response capability for terrorist attacks involving nuclear, radiological, biological, and chemical weapons” (Defense Against WMD Act of 1996, iv).

One needs look no further for future trends than the *National Security Strategy* and the *National Military Strategy*. The *National Security Strategy*, October 1998, clearly states that “Under the Domestic Terrorism Program, the Defense Department will maintain military units to serve as augmentation forces for weapons of mass destruction consequence management and to help maintain proficiency of local emergency responders through periodic training exercises” (NSS 1998, 19). The document further declares that the National Guard and the Army Reserve will be trained to assist state and local authorities to manage the consequences of a WMD attack. What further proof would the Department of the Army need to identify its future role? There are numerous other indicators that lead to the same conclusion.

The *National Military Strategy of 1997* clearly states that “Unique military capabilities can also support domestic authorities in combating direct and indirect threats to the U.S. homeland . . . especially when the potential for violence exceeds the capability of domestic agencies” (NMS 1997, 17). How far and in what role the military may act is left open. Examination of this broad approach will be examined in chapter 4. Additional government documents provide greater detail and hence, more conclusive evidence as to the future use of the Army in the domestic arena.

The Defense Reform Initiative described in detail in DoD Directive 3025.15 identifies four “be prepared” missions for the National Guard and the Army Reserve:

1. Train local authorities in chemical and biological weapons detection, defense, and decontamination
2. Assist in casualty treatment and evacuation
3. Quarantine, if necessary, affected areas and people
4. Assist in restoration of infrastructure and services

The directive prescribes numerous restructuring initiatives for the National Guard. Among the most critical are the change in the Guard’s force capabilities. “The National Guard should also provide forces organized and equipped for training of civil agencies and the immediate reinforcement of first-response efforts in domestic emergencies” (DoD Directive 3025.15 1997, 8). These realigned forces would focus on the management of the consequences of a terrorist attack, to include responses to the use of weapons of mass destruction. The force restructuring mentioned in the directive calls for many other changes, to include the reduction of armored and or combat forces to develop the capabilities to respond to domestic emergencies. The ramifications and emotions

generated from such recommendations, while significant, are beyond the scope of this paper.

In accordance with Public Law 104-205 - Title 14, “. . . the Secretary of Defense assigned the Secretary of the Army as the Executive Agent for coordinating WMD training assistance to Federal, State, and Local officials” (Title 14 U.S.C. 1996, 1). Title 14 clearly dictates that the Secretary of the Army and, hence, the Department of the Army are responsible for developing the planning guidance, plans, implementation, and procedures for the Domestic Preparedness Program (Title 14 U.S.C. 1996, 1). As a result, an implementation chain of command has been enacted by the Secretary of the Army to implement Title 14 (see figure 2). Elements of the active Army, Reserve forces, and National Guard are already involved in the process of training and equipping teams for consequence management. The capabilities of these teams and their training will be further discussed in chapter 4.

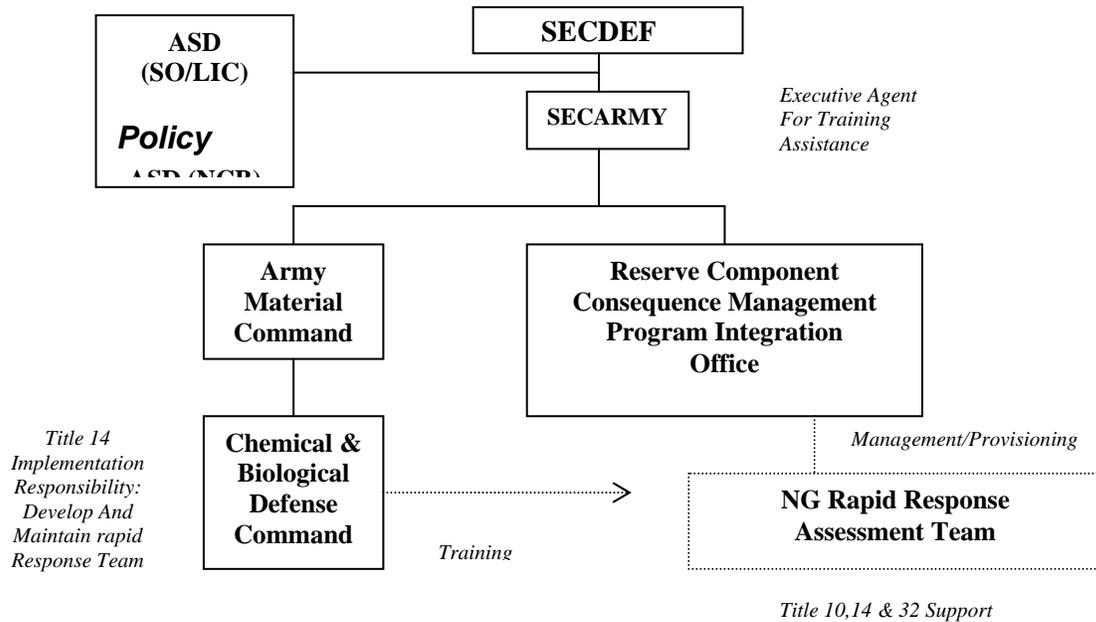


Figure 2. Title XIV Implementation

## **Doctrine Defined?**

Before explaining the current doctrine in depth, it is prudent at this point to delve deeper into the definition of doctrine. The DoD defines military doctrine as “fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives. It is authoritative but requires judgement, in application” (JDE 1997, 253). This definition can be broken down into two distinct elements: the characteristic that it is directive in nature and must be tempered with judgment, and the function of providing the fundamental principles by which military forces conduct or guide their actions (Weimer 1998, 19). To answer the thesis statement one must question whether the doctrine the Army follows today supports the forces in the domestic arena in response to the use of WMD. To answer this question the Army must first have a method by which to judge the validity of the consequence management doctrinal structure. Two methods will be used for this analysis. Both methods used established criteria or definitions upon which the current WMD doctrine can be analyzed.

The first method used to judge the validity of the current doctrine is the Drew model. Colonel Dennis Drew, USAF, wrote in 1982, “On Trees and Leaves; A New View of Doctrine,” to emphasize the shortcomings in Air Force doctrine in the 1980s. Colonel Drew’s text portrays a hierarchy of doctrine: fundamental, environmental, and organizational writings that when brought together form the structure of doctrine. His model provides a generic and easily understandable format for the review of doctrine. Many may take issue with the simplicity and utopian nature of this model. This is applicable due to the fact that domestic operations are executed within the confines of the United States and not in hostile territory. Federal forces are not fighting an enemy while

conducting these operations. Colonel Drew chose the symbol of a tree to represent Air Force doctrine (see figure 3).

Major James R. Weimer, U.S.A.F., in his thesis, “Antiterrorism Doctrine Today: A Recipe For Disaster,” provides a discussion of Colonel Drew’s model. His example clearly portrays what is needed to provide the structure of doctrine.

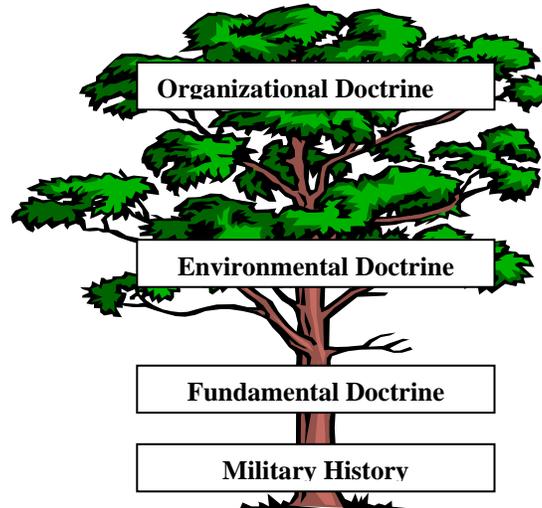


Figure 3. Colonel Drew’s Tree (Drew 1988, 171)

According to Colonel Drew, fundamental doctrine should contain certain characteristics. Fundamental doctrine possesses an enduring quality based on basic concepts and should not be subject to constant change in technology and the political climate. This category also contains a basic foundation in the history of the use weapons of mass destruction as a terror weapon and specifically, consequence management. The *National Security Strategy* and *National Military Strategy* will provide the foundation of the fundamental doctrine. Table 1 summarizes the fundamental doctrine criteria.

Table 1. Fundamental Structure Criteria

Basic Beliefs: History and nature of weapons of mass destruction and their use
Timelessness: Basic concepts hold true across time – enduring
Not made obsolete by changing political or technological advances

Source: Weimer 1998, 22

“Environmental doctrine describes the ability of the military to successfully conduct its business in the anticipated environment” (Weimer 1998, 22). This doctrine will provide the commander with more specific guidance than that of fundamental doctrine. It is important to note that for the sake of this thesis the environment is the domestic arena. For different operations the environment will change. For example, if one were discussing offensive operations, the environment would include all known landmasses where the Army anticipated possible deployment.

Today the Army operates across the entire spectrum of conflict. Some operations may involve whole corps or divisions while others may involve only a handful of soldiers. In addition, the spectrum includes everything from high intensity conflict to peace operations. Drew mentions that the value of environmental doctrine is that it is adaptable and can change with advancing technology and political climates without becoming obsolete. Table 2 summarizes the environmental structure criteria.

Table 2. Environmental Structure Criteria

Applicability in all mediums at all times
Ranges the entire spectrum of operations in all levels of intensity
Acknowledges the advancement of new technology

Source: Weimer 1998, 23

The final category concerns organizational doctrine. Organizational doctrine, according to Drew, pertains to the combination of changes in the environmental doctrine with that of fundamental doctrine. The result is focused guidance for commanders at all levels (Weimer 1998, 23). Organizational doctrine must provide particular forces in a

particular environment at a particular time with specific courses of action relevant to the threat.

Table 3. Organizational Structure Criteria

Acknowledged existence
------------------------

Source: Weimer 1998, 23

Acknowledging the existence of such doctrine or lack thereof is within the confines of this thesis. The lack of any criteria in the tables above may indicate that change is needed in the current WMD doctrine.

Combining Colonel Drew’s model with the more widely known tactical-operational-strategic view of doctrine will ensure a proper analysis of the WMD doctrine. “The benefit of this hybrid model is its ability to link higher-level with lower-level doctrine” (Weimer 1998, 24). Using the second method for analysis, strategic-operational-tactical ensures the validity of the results, thus limiting false conclusions pertaining to the existing doctrine.

Looking at the strategic doctrine one can use the following familiar equation:

$$\text{Strategy} = \text{Ends} + \text{Ways} + \text{Means}$$

This equation breaks down strategy, or rather strategic doctrine into three separate parts. The doctrine must identify the ends (objectives) in relation to consequence management efforts. The doctrine must identify the ways (programs) in place or to be implemented to reach the objectives. Finally, the doctrine must allocate the means (resources) required to meet those objectives. The following table displays the criteria for a valid assessment of

strategic doctrine. The strategic and fundamental doctrine will be evaluated simultaneously.

Table 4. Strategic Content Criteria

Ends Identified (objective)
Ways Identified (programs)
Means Identified (resources)

Source: Weimer 1998, 24

Operational doctrine provides the bridge between strategic and tactical doctrine. The focus at this level is on conducting joint operations . . . the employment of military forces to attain theater-strategic objectives in a theater of war and operational objectives in the theaters of operations through design, organization, and execution of subordinate campaigns and major operations. (FM 100-5 1993, 6-2)

This doctrine must first relate to the unilateral employment of our Army as observed today. Active, Reserve and Guard soldiers may all be employed in response to the use of WMD on American soil. The doctrine must apply to the very joint nature of our forces as well. Many of the forces today are equipped, trained, and operate in the joint environment. This doctrine must thus pertain to the joint force commander. A quick look into the USCINCCOM FUNCPLAN 2501-97, “Military Support to Civil Authorities (MSCA),” only reinforces this point. This joint command currently takes the lead for all actions concerning the employment of troops within the confines of the U.S. Finally, operational doctrine must be in concert with the agencies, governmental and nongovernmental, with which the military will support and receive support from if employed for consequence management. The consequence management chain of command (figure 1) clearly represents how DoD will fall into the scheme of command

during such a deployment and the agencies with which it will operate. The following table shows the criteria for a valid assessment of operational doctrine. Similar to strategic doctrine, the operational writings and environmental category will be analyzed at the same time.

Table 5. Operational Content Criteria

Unilateral Employment
Joint Employment
Interagency Agreements

Source: Weimer 1998, 25

Tactical doctrine applies to the lowest levels of command and permits those commanders to fight, win, and accomplish the mission. The doctrine contains the tactics, techniques, and procedures (TTPs) used by commanders, based on the situation, to accomplish the mission. The importance of this doctrine cannot be understated. An Army trained to fight and win the nation’s wars through the use of combat vehicles and shock effects will find itself tightly constrained and confused if the doctrine does not specify the constraints required for consequence management operations within the U.S. Here lies the major point in preparing the Army to act in such operations. The following table reflects the criterion for analysis of the tactical doctrine. An analysis of the tactical doctrine and organizational category will be conducted simultaneously.

Table 6. Tactical Content Criterion

TTPs meet DoD standards
-------------------------

Source: Weimer 1998, 25)

The doctrinal tree emerges as all the information collected is placed together. A quick view of table 7 depicts how these data appear. The fundamental and strategic

contents make up the trunk of the tree. The environmental and operational categories comprise the branches. The organizational and tactical doctrine adds the leaves to the tree.

Chapter 4 will analyze the effectiveness of each category for its acceptance or non-acceptance to meet the specific characteristics discussed in this chapter. A plus (+) will demonstrate the acceptance of the document. In essence the doctrine contains the principles by which the forces employed can guide and control their actions in support of the objectives. A minus (-) will indicate nonacceptance of the doctrine. A minus equals a shortcoming in the doctrine which must be addressed in order that forces may be employed properly.

Table 7. Consolidated Criteria

<b>Fundamental</b>
Basic Beliefs: History and nature of weapons of mass destruction
Timelessness: Basic concepts hold true across time – enduring
Not made obsolete by changing political or technological advances
<b>Strategic</b>
Ends Identified (objective)
Ways Identified (programs)
Means Identified (resources)
<b>Environmental</b>
Applicability in all mediums at all times
Ranges the entire spectrum of all operations in all levels of intensity
Acknowledges the advancement of new technology
<b>Operational</b>
Unilateral employment
Joint employment
Interagency agreements
<b>Organizational</b>
Acknowledged existence
<b>Tactical</b>
TTPs meet DoD standards

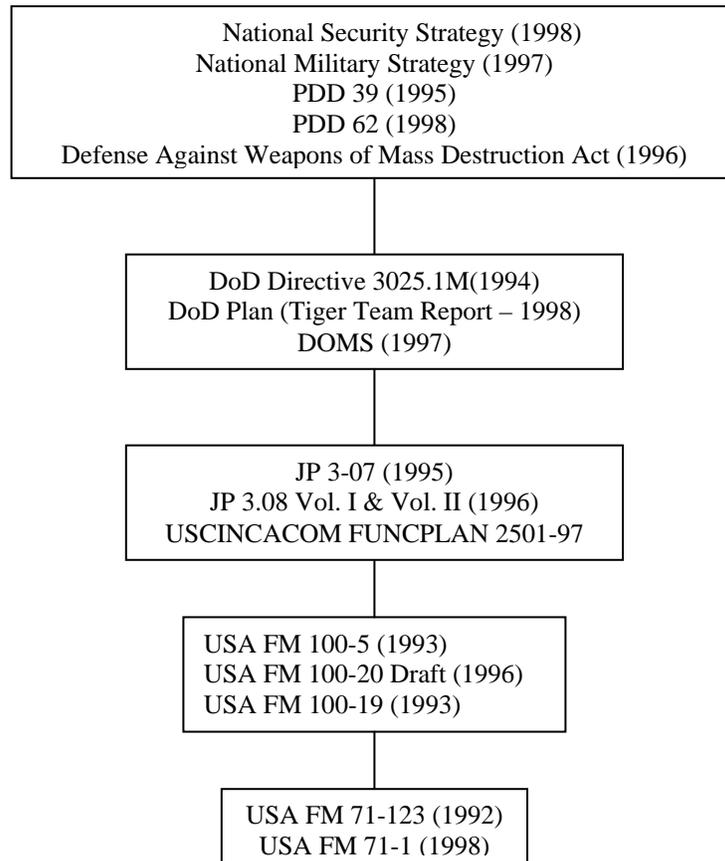
Source: Weimer 1998, 29

Conducting this analysis using the Colonel Drew model and the strategic-operational-tactical methods will yield conclusive results concerning the relevance of WMD doctrine. The results of the analysis will then lead to sound recommendations to help better prepare the Army to support the nation. Recommendations to overcome and correct any shortcomings will be covered in chapter 5.

## CHAPTER 4

### ANALYSIS

The methodology established in the previous chapter will serve as the tool to conduct the analysis of the current doctrine. An analysis of the fundamental doctrine, environmental doctrine, and the organizational doctrine of consequence management operations will be made. Figure 4, shown below, provides the hierarchical representation of the current doctrine.



**Figure 4. Current Doctrine Hierarchy**

The top box in the figure represents the fundamental/strategic level, the middle three boxes represent the environmental/operational, and the lowest box designates the organizational/tactical doctrine. “While some would argue that the national-level doctrine is not doctrine at all but a statement of national policy, it is incumbent to these writings as the expression of the President’s (and thus the commander’s) intent, a concept firmly embedded in military doctrine” (Weimer 1998, 31). As a result the national-level documents are certainly crucial to this study.

One may disagree with the layout of the above figure. Department of Defense (DoD) writings are purposely shown above the joint publications and U.S. Army publications to portray the order of ascendancy. DoD writings are directive in nature and established by the Secretary of Defense in respect to all services and the Joint environment. Likewise, the joint publications are shown above the Army specific manuals to demonstrate where they would assume precedence if consequence management operations were executed under a Joint Commander.

#### Fundamental and Strategic Doctrine (The Trunk)

The foundation of fundamental doctrine rests with the *National Security Strategy (NSS)* and the *National Military Strategy (NMS)*. These two documents, signed by the President and the Chairman of the Joint Chiefs of Staff respectively, direct all other document products throughout the doctrinal tree. Presidential Decision Directive (PDD) 39, PDD 62, and the Defense Against Weapons of Mass Destruction Act of 1996 are also included in this category. These additional documents, as depicted in figure 4, also play heavily in the realm of fundamental doctrine.

Before analyzing the documents in this category it is prudent to review the criteria for the fundamental category. The first criterion concerns basic beliefs. In the case of this thesis, this translates into the threat of the use of WMD and, hence, the threat to national security. The threat of the use of WMD is not a passing fad but rather will exist for the foreseeable future. The second criterion concerns timelessness. Better said, the doctrine can be proven by a lack of change and is not set for a certain duration of time. The doctrine exists, much like the threat for the foreseeable future, despite the changing of administrations and CJCS. The third and final criterion concerns the durability of the doctrine. Despite the rapid changes in technology and the ever-changing world political map the doctrine must survive as is. It cannot rely on estimates or conjecture.

The *National Security Strategy of 1998* clearly expresses the use of WMD as a threat to the security of the nation. “National security emergency preparedness is imperative, and comprehensive, all-hazard emergency planning by Federal Departments, agencies and the military continues to be a crucial to national security requirement” (Clinton 1998, 26). Specifically under the title of *Emerging Threats at Home* the document addresses the management of the consequences of WMD incidents by US military forces. “Under the Domestic Terrorism Program, the Defense Department will maintain military units to serve as augmentation forces for weapons of mass destruction consequence management and to help maintain proficiency of local emergency responders through periodic training and exercises” (Clinton 1998, 20). The *National Security Strategy* has been shown to meet the first criterion.

The *National Military Strategy* mirrors the *National Security Strategy*, though somewhat less detailed. Despite being written a year earlier than the *National Security*

*Strategy*, the *National Military Strategy* addresses the use of WMD to threaten the US homeland as a viable threat. “Of special concern are terrorism, the use or threatened use of WMD and information warfare. These three risks have the potential to threaten the US homeland and population directly” (NMS 1997, 9). The *National Military Strategy* meets the first criterion.

Presidential Decision Directive 39 (PDD 39), the US Policy on Counterterrorism (unclassified) specifically addresses the importance of the threat of WMD and the preparation to react to such an incident.

***It is the policy of the United States to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities. . . . The United States shall give the highest priority to developing effective capabilities to detect, prevent, defeat and manage the consequences of nuclear, biological, or chemical (NBC) materials or weapons use by terrorists. (Clinton 1995, 10)***

Setting the stage as the highest priority to managing the consequences of WMD should not be taken lightly by any means. The threat exists and the priority has been set to meet it before or after it occurs. PDD 39 meets the first criterion.

Presidential Decision Directive 62 (PDD 62), *Combating Terrorism*, much like PDD 39, specifically addresses terrorism as a significant threat to the US. The directive establishes the National Coordinator for Security, Infrastructure Protection, and Counterterrorism. The office will oversee all policies and programs, to include funding and training, for consequence management operations. The establishment of such an office, with the sizable amount of funding provided thus far, demonstrates the administration’s recognition of the urgent nature of the threat. PDD 62 meets the first criterion.

The final document in this category, the Defense Against of Weapons of Mass Destruction Act of 1996, demonstrates beyond any question the threat to national security. The act is directive in nature and requires the president to take immediate action.

In light of the potential use of weapons of mass destruction against the United States, the President shall take immediate action -- to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and to provide the enhanced support to improve the capabilities of State

and Local emergency response agencies to prevent and respond to such incidents at both the national and the local level. (Congress 1996, 5)

This Act further dictated the establishment and training of the Department of Defense Rapid Response Teams. The Defense Against Weapons of Mass Destruction Act of 1996 clearly meets criterion one.

The second criterion, timelessness, is difficult to prove. The five documents discussed to this point span a period of three years, beginning in 1995. Despite this fact and the ever-changing political environment in Washington, DC, it is with the utmost certainty that the threat or use of WMD domestically will not change significantly. While review of previous administrations showed no real attention to the issue, it is also a matter of fact the threat of WMD (domestically) is a new one. Terrorism in and of itself is as old as warfare. However, the demise of the Soviet Union, the proliferation of technology and the emergence of the United States as the sole world military power in the 1990s have all contributed to the ascendance of WMD as a probable option for rogue states and terrorists. According to the Drew model fundamental doctrine “seldom changes because it deals with basic concepts rather than contemporary techniques” (Drew 1988, 168). It is with certainty that a new administration will come to the same conclusion as the present. The use of WMD poses a serious threat to the US and we as a country must be prepared to meet that threat and react to the consequences of such an incident. As a result it is determined that all five documents meet the second criterion.

The third and final criterion for the analysis of fundamental doctrine must now be examined. The third criterion, which is really the basis for the second, “is that fundamental doctrine is relatively insensitive to political philosophy or technological

change” (Drew 1988, 168). In essence, new technological devices will not render the doctrine obsolete. Nothing in the foreseeable future would actually lead to such a dramatic change. Not one of the five documents discussed to this point addresses technology when specifically addressing consequence management and the use of WMD. PDD 39, PDD 62, and the Defense Against Weapons of Mass Destruction Act of 1996 make no mention of the changing technologies of the day. *The National Security Strategy* states that “Government-wide, we will continue to foster innovative approaches, capabilities, technologies and organizational structures to better protect American lives, property and interests at home and abroad” (NSS 1998, 23). *The National Military Strategy* pays the most attention out of the five to technology. It states,

As we reshape our forces to meet the challenges of a changing world, we will leverage emerging technologies to enhance the capabilities of our servicemen and women through development of new doctrine, organizations, material, and training. Development and acquisition of new systems and equipment will improve our ability to conduct decisive operations and achieve full spectrum dominance. However, they are not a panacea. We must recognize that each includes inherent vulnerabilities; each must be applicable across the range of operations; each must enhance the human capability of our forces. (NMS 1997, 18)

Despite the lack of attention to technology, each of the five documents addresses the urgency in which to undertake operations. The evolution of the Internet and other technological advances in decontamination apparatus, medical procedures and other equipment would all be incorporated into the current doctrine set forth in these documents. Technological advancements would not be ignored. As a result it can be soundly stated that two documents meet the third criterion.

The previous review has shown that the fundamental doctrine meets the criterion of deriving from basic beliefs, surviving over time and durable enough to remain constant for the foreseeable future.

The strategic doctrine must now be examined to see if it meets each of the three criteria: ends, ways and means. Specifically, the Army is looking at each document to see that it defines objectives, identifies the courses of action to achieve them, and provides the resources to support each course of action.

The *National Security Strategy* in more than one location mentions the use of Department of Defense assets to respond quickly to restore order and deliver emergency assistance to those injured or affected by a WMD incident. The document further expands on the issue by issuing guidance for training various other agencies to ensure rapid response. The document, despite its overarching coverage, meets the first criterion.

The *National Military Strategy*, much like the *National Security Strategy*, is vague and overarching in its identification of the “objective” of consequence management operations. In fact, the document, most likely due to its having been written a year earlier than the current *National Security Strategy*, does not even mention the term “consequence management.” The document does, however, mention the use of WMD and the military’s task to “increase our capabilities to counter these threats and adapt our military doctrine, training, and equipment to ensure a rapid and effective joint and interagency response” (NMS 1997, 9). Making no excuse for the document’s age, it fails to properly identify the objective of responding to a WMD incident. Beyond the above quotation the document does little to identify to the U.S. military the end state of WMD

operations. The NMS fails to meet the first criterion and this will be annotated as such on the table.

Presidential Decision Directive 39 (PDD 39), *U.S. Policy on Counterterrorism*, says, “We shall have the ability to respond rapidly and decisively to terrorism directed against us wherever it occurs . . . with all the appropriate instruments against the sponsoring organizations and governments and provide recovery relief to victims, as permitted by law” (PDD 39 1995, 6). It is apparent that within the confines of this Presidential document the President has placed great emphasis on responding to any terrorist action, to include the use of WMD.

Presidential Decision Directive, 62 (PDD 62), *Combating Terrorism*, much like PDD 39, meets the first criterion. Once again it is an overarching document that places strong emphasis on the ability of national agencies to limit the damage and manage the consequences should WMD be used within the boundaries of the United States.

The final document to review for the first criterion is the Defense Against Weapons of Mass Destruction Act of 1996. This Act, although directive in nature, does not clearly describe the end state of consequence management operations. Recognizing the lack of training of local and state agencies the Act requires the training of such agencies to improve their ability to respond to WMD incidents. It assigns the Secretary of Defense and hence, the Department of Defense as the lead agency in this process. The Act, however, fails to meet the first criterion of recognizing an end state for consequence management operations. Rather it recognizes the threat and assigns responsibility for training without discussing any specific end state.

The second criterion of the strategic doctrine concerns the “ways” or, more specifically, the courses of action to take to achieve the end states already identified. The *National Security Strategy* clearly identifies courses of action through which we as a nation will reach the desired end states of consequence management operations. The Domestic Terrorism Program will integrate the capabilities and the assets of the nation to support the FBI, FEMA, and state and local governments in consequence management. In addition the President directs the Department of Defense to train the Army Reserve and the National Guard to assist local and state governments in managing the consequences of WMD attacks.

The *National Military Strategy* does not identify specifically those courses of action to meet the end state of consequence management operations. The document considers shaping the international environment while providing little insight as to how the military can help shape the domestic environment. The document does use one of its three strategic concepts (Shape, Respond, and Prepare Now) that could be applicable in this case. The CJCS dictates that the military of the United States must be prepared now for an uncertain future. While one may consider this as a ‘catch all’ under which consequence management operations might fall, the *NMS* fails to meet the second criterion.

PDD 39 in this area falls short of identifying specific courses of action to reach the end state for consequence management operations. The directive is just that, directive in nature. PDD 39 goes only so far as to identify lead agencies throughout the national government with which to establish programs that will lead to the desired end state.

PDD 62, the President's directive concerning combating terrorism, meets the second criterion. The directive creates the Office of the National Coordinator for Security Infrastructure Protection and Counter-Terrorism. The National Coordinator will oversee a broad number of policies and programs, which includes consequence management operations for weapons of mass destruction.

The final document for the review of the second criterion is the Defense Against Weapons of Mass Destruction Act of 1996. The act clearly identifies many courses of action with which the nation can meet the threat and respond to WMD incidents. While the document is prescriptive in nature, it does establish the programs to prepare the nation to act. Emergency response assistance programs and testing procedures to determine overall readiness are assigned to various national agencies. The act sets in motion the national response actions to be developed to respond to WMD incidents. The act meets the second strategic criterion.

The final criterion for analysis of the strategic doctrine concerns the means by which the doctrine will be implemented. The *National Security Strategy* mentions little beyond the task of training National Guard and Army Reserve units to assist local authorities. Likewise the *National Military Strategy* fails to direct any specific service, let alone force (Active, Reserve, or National Guard), to prepare for such operations.

PDD 39 focuses on the specific responsibilities of the identified agencies but falls short in addressing how operations will take place. The document addresses specified chains of command for crisis management and consequence management operations but much like the *NSS* fails to specify how and in what type of operations the military will be involved.

PDD 62 resembles PDD 39 in this respect. Once again there is little mentioned that leads one to understand the means which consequence management will conduct operations.

The Defense Against Weapons of Mass Destruction Act of 1996 provides the best example of the means by which consequence management operations will be undertaken. The document specifically tasks DoD to form and man Rapid Response Teams to aid federal, state, and local authorities for crisis and consequence management operations. Members of the Armed Forces and employees of the DoD will man these teams. While the document only dictates the forming of one specific unit (RAID Teams), far short of what the nation requires, it does provide enough guidance to meet the third strategic criterion. Since the writing of this act, twelve RAID teams have been congressionally mandated for rapid response actions. Additionally, the act allocates resources up to \$35,000,000 to begin the programs as outlined in the act.

The strategic doctrine falls short of expectations. The scores will be annotated on the table.

In summary, the results tabulated for the fundamental and strategic doctrine provide a mixed picture. There are evidently significant gaps in the doctrinal guidance provided to subordinate commanders and doctrinal writers alike. The effects of these results will be clearly visible in the latter portion of this chapter.

The findings for the fundamental and strategic doctrine are annotated in table 8. One can clearly see the mixed results. Since the writing of the documents discussed above, much greater emphasis has been placed on the topic of consequence management. Additional funds have been allocated to increase the nation's readiness posture

concerning both crisis and consequence management. Specific figures will be discussed later in this chapter and in chapter 5.

Table 8. Fundamental/Strategic Doctrine

	NSS	NMS	PDD 39	PDD 62	Def. Act
<b>Fundamental</b>					
Basic Beliefs: History and nature of weapons of mass destruction	+	+	+	+	+
Timelessness: Basic concepts hold true across time – enduring	+	+	+	+	+
Not made obsolete by changing political or technological advances	+	+	-	-	-
<b>Strategic</b>					
Ends Identified (objectives)	+	-	+	+	-
Ways Identified (programs)	+	-	-	+	+
Means Identified (resources)	-	-	-	-	+

Source: Weimer 1998, 39

### Environmental and Operational Doctrine (The Branches)

When analyzing the environmental doctrine the Army looks at three criteria: that the doctrine is applicable in all media; that the doctrine covers the entire spectrum of all operations in all levels of intensity; and that the doctrine acknowledges the advancement of technology.

Operational doctrine likewise concerns three criteria. The US Army (Active, Reserve and National Guard) conducts unilateral operations and maintains installations throughout the United States. Domestic operations fall under the Commander in Chief of the Atlantic Command (CINACOM), a joint command. Thus, both the Army and the joint commander have WMD consequence management responsibilities. Finally, as demonstrated before, all military operations conducted within the confines of the United

States fall under the control of a civilian agency and must account for interagency agreements.

Seven different documents will be analyzed in the search for accurate analysis of existing environmental doctrine. The documents to be analyzed are: DoD Directive 3025.1M, *Military Assistance to Civil Authorities - 1994*; DoD Plan, *Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction – 1998*; *Director of Military Support (DOMS) to Civil Authorities 1998*; Joint Publication 3-07; Joint Publication 3.08, USCINACOM FUNCPLAN 2501-97; Department of the Army Field Manual 100-5, *FM 100-5 Operations – 1993*; Department of the Army Field Manual 100-20 (Draft), *FM 100-20 Stability and Support Operations – 1996*; and Department of the Army Field Manual 100-19, *FM 100-19 Domestic Support Operations – 1993*. To facilitate the number of documents to be analyzed, each document will be reviewed against the criteria for environmental and operational doctrine independently. This will help the reader maintain some sense of organization and clarity throughout the section.

The Department of Defense Directive 3025.1-M, *Military Assistance to Civil Authorities - 1994* provides the first opportunity to analyze current environmental doctrine. The document stands as the foundation for all subsequent doctrine within DoD concerning domestic operations. It is important to note that various updates have been written concerning this directive. For example DoD Directive 3025.15, *Military Assistance to Civil Authorities* was published in 1997. Despite this new document, 3025.1 M (manual) remains one of the most inclusive DoD documents concerning domestic operations.

The manual adequately describes the environment within which Army forces must operate. The document covers Military Support to Civil Authorities (MSCA) for all DoD components “in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the former Trust Territory of the Pacific Islands” (DoD 1994, 1-1). Clearly this demonstrates to all DoD Components the environment within which they must be prepared to operate. While one would expect a more detailed analysis, none is truly warranted. The environment is the United States and its legal territories.

The Directive is detailed in its explanation of the spectrum of operations that Army forces may expect to be employed. Radiological events are addressed but chemical and biological events are absent from the text. The manual covers the spectrum by grouping these weapons, and in essence, all weapons under the title of “All Hazards.” This term concerns all emergencies resulting from “natural or man made events, including, without limitation, civil disturbances and attack related disasters” (DoD 1994, 2-3). Once again one would desire a better explanation of the entire spectrum and intensity of the operation within which Army forces would be employed. The requirement to be prepared for all emergencies, though generic at best, provides enough broad guidance and hence meets the second criterion.

Acknowledging the advancement of new technologies is a critical part of formulating a proper response to a WMD incident. DoD Directive 3025.1 M requires the Commanders in Chief and the CINCUSACOM and CINCUSPACOM to develop training standards and the exchange of service capabilities applicable to domestic disaster responses (DoD 1994, 6-2). Inherent in this statement is the use of advance technologies

that exist in the force structure to respond to the emergency. The directive meets the third criterion.

The directive describes the possible employment of active, reserve and guard forces in support of these operations. Secondly it tasks the CINCCACOM with the responsibility of maintaining contingency plans for domestic contingency operations. Throughout the directive the subordinate role and command relationships to civilian agencies is highlighted. The directive meets the operational doctrine criterion.

The DoD Plan, *Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction* (Tiger Team Report) provides an excellent review of existing environmental doctrine. The report prescribes that “this plan develops capabilities for operational response to nuclear, biological, and chemical threats within the confines of the United States” (Tiger Team Report 1998, 4). Clearly the environment in which US Army forces might be called to operate is prescribed by the Secretary of Defense. While military plans usually and most preferably desire a detailed analysis of the environment, the message is clear; be prepared to operate anywhere in the United States. In essence this means in any type of terrain, and any type of built-up-area from a small village to a major city. The report meets the first criterion.

Subsequently the report meets the second criterion. The report requires that US military forces be prepared to operate in support of any civil agency requiring assistance. It is clearly recognized that many state level agencies do not have the wherewithall to handle such incidents. The military must be prepared to move in quickly after an incident if requested to do so. They must be prepared to use their current go to war capabilities to

“operate for extended periods of time, quite different from our wartime practices” (Tiger Team Report 1998, 8).

The Tiger Team Report incorporates the necessity to include any advancement of new technologies as part of the response plan. Beyond the formulation of Rapid Assessment and Initial Detection (RAID) Elements manned by US Army Reserve units the plan directs for the full integration of capabilities and equipment to the state and local level. The plan lays down a five-year plan to train and equip state and local agencies while purchasing new equipment and developing new doctrine and simulations. The third criterion has been met.

The report leaves no question as to its fulfillment of the operational doctrine. The title alone should lead one to conclude that the report meets the unilateral criterion. The report highlights the importance of an integrated response from all elements (Active, Reserve, and Guard). Designated CINC responsibilities answer the joint employment requirement of the planned response. Finally, similar to DoD Directive 3025.15M, the subordinate nature of the doctrine to federal agencies and agreements therein are adequate enough to meet the third criterion.

The Director of Military Support (DOMS) plan is the most recent program concerning WMD and consequence management operations and other domestic operations. The document discusses the Secretary of the Army’s executive agent responsibilities as they have been delegated by the Secretary of Defense for Domestic Support Operations. The document, being the most recent, is detailed in its description concerning environmental doctrine. The document clearly defines the environment of

operations for all domestic support operations. In addition the support plan designates those cities throughout the United States that will receive training for WMD incidents.

The plan incorporates many planned and ongoing programs to better prepare state and local agencies to rapidly respond to WMD incidents. Much like the *Tiger Team Report* the plan identifies the formulation of RAID teams and the operations they must be prepared to perform. The operations listed concern various tasks such as triage, decontamination and transportation. While the list is not all-inclusive it clearly meets the second criterion. The spectrum of operations has been defined. The plan covers the entire spectrum of all domestic operations, from forest fires to WMD incidents.

Finally, the DOMS plan allows for the advancement of new technologies in support of WMD operations. The training plan incorporates the latest equipment and capabilities. In addition, by the formulation and manning of the RAID teams, the latest equipment and capabilities will be at the forefront of the military's response. Periodic reviews to the Secretary of Defense will further reinforce the advancement of new technology and capabilities. DOMS meets the third criterion.

Concerning the operational doctrine, DOMS meets the three criteria specified for this study. The plan details the integrated capabilities of all designated Army units and sister services included in the plan. Furthermore, the relationship between Army units and the civilian agencies they fall under for specific operations is discussed. There is little question that the DOMS plan provides proper guidance concerning operational doctrine.

Joint Publication 3-07, *Joint Doctrine for Military Operations Other Than War – 1995*, provides an in-depth discussion of all military operations short of war. The

publication fails however, to identify WMD consequence management operations as a specific operation. While this is most likely due in part to the publication date of the material, 1995, it can not be overlooked. The range of military operations, though clearly defined, falls short from what is expected. A generic discussion of operations within the confines of the United States falls short of meeting the first criterion.

“Support to civil authorities can be as diverse as temporary augmentation of air traffic controllers and postal workers during strikes, restoration of law and order in the aftermath of riots, protection of life and federal property, or providing relief in the aftermath of a natural disaster” (JP 3-07 1995, III-8).

The absence of any clear indication of WMD consequence management operations quickly leads to conclusions on the remaining two criteria for this category.

JP 3-07 fails to account for the entire spectrum of WMD consequence management operations and the acknowledgement of incorporating new technologies. JP 3-07 fails to meet the second and third criteria.

This publication provides only a short summation of domestic operations. As a result its discussion of operational doctrine is limited at best.

Joint Publication 3-08, *Interagency Coordination During Joint Operations* vol. I 7 II – 1996, has results similar to those of JP3-07. The publication concerns interagency coordination across the range of military operations. Although a portion of the text is dedicated to Interagency Crisis Response at the Operational Level: Domestic Operations, little attention is given to defining the environment within which WMD consequence management operations might take place. The publication, while applicable to operational doctrine criteria, fails to meet any of the three environmental doctrine criteria.

USCINCOM FUNCPLAN 2501-97, *Military Support to Civil Authorities* – 1998, is the Commander in Chief (CINC) of Atlantic Command’s (ACOM) functional

plan concerning all domestic operations within the confines of the United States. Specifically, the plan covers operations within the forty-eight contiguous states and the District of Columbia. The plan identifies the environment in which US military forces under the command and control of the CINC may operate. It meets the first criterion.

Additionally, the plan considers all of the situations (spectrum) in which forces may be deployed. US forces may be called for numerous operations, to include consequence management operations, in all environments. The plan meets the second criterion.

While the plan is detailed in its review of operations and procedures, to include chains of command for specific incidents, it falls short in acknowledging the advancement of new technologies. The plan relies on existing doctrine and capabilities and fails to incorporate programs that the Army witnessed in the Director of Military Support (DOMS) plan. The *USCINCACOM FUNCPLAN* fails to meet the third criterion.

The plan does much well in its representation of operational doctrine. A detailed discussion of the interagency agreements and joint nature of the operations is provided. Similarly the unilateral employment of forces is presented under the guise of a tier two response; a service specific task force (Army).

Army specific manuals comprise the remaining three manuals for this category. The first manual for under review is Field Manual (FM) 100-5 *Operations 1993*. This manual provides the foundation for all Army doctrine. As such, the Army expects to find conclusive results concerning environmental doctrine. The FM does not disappoint us. The environment and the levels of intensity are clearly defined. When referring to the mass destruction environment the manual states that “Commanders must train and equip

soldiers and civilians alike to endure these conditions” (FM100-5 1993, 6-10). Further explanation is provided as to the proper preparation for such operations. While this description is not included in the chapter relating to operations other than war, it can be deduced that the same guidance applies to domestic operations.

Furthermore the manual acknowledges the advancement of new technologies. Doctrine should reflect new technology and its potential for the future, as well as its effects on Army operations. The three criteria for environmental doctrine are met.

Operational doctrine is discussed in detail. Considered the premier Army doctrinal manual the results do not disappoint. FM 100-5 recognizes that “the Army will not operate alone . . . and must be prepared to conduct a number of operations . . . with a variety of government and nongovernment agencies, other services, and international agencies” (FM 100-5 1993, 2-2).

Army Field Manual 100-20 (Draft), *Stability and Support Operations 1996*, falls far short in its explanation and description of environmental doctrine. The manual provides a brief overview of domestic operations and the procedures upon which federal forces might be employed. The manual fails to provide the detail necessary to determine and develop subordinate doctrine, let alone account for forces to function in a WMD environment. FM 100-20 fails to meet the criterion of environmental doctrine.

Analysis of the operational doctrine leads to better results. While the information provided is short in detail, the manual adequately discusses the operational criteria and directs users to other doctrinal manuals for further clarification.

Field Manual 100-19, *Domestic Support Operations 1993*, clearly identifies the WMD environment. The manual details the necessity for the Army to rapidly respond to such

incidents and operate within that environment. The first two criteria have been met. Unfortunately, the manual fails to consider new technologies in the preparation of Army response. Much like FM 100-20, response, preparation, and training are discussed in a “come as you are” setting.

As the Army’s premier doctrinal manual concerning domestic support operations one would expect a thorough discussion of the operational doctrine. While somewhat dated, FM 100-19 meets the criteria for this category. A thorough discussion of unilateral and joint employment and interagency agreements is provided.

The results from the analysis of the environmental and operational doctrine provide mixed reviews. Clearly the “branches of the tree” are not as sound as the Army would desire. Gaps are evident in the hierarchy of doctrine. The results will be shown respectively on table 9.

In short, some of the results reached here are a direct reflection of the gaps in the fundamental and strategic doctrine. Similarly, the Army can expect the same impact on the subordinate doctrine, the organizational and tactical doctrine.

Table 9. Environmental/Operational Doctrine

	3025.1	Tiger Team Report	DOMS	JP3-07	JP3-08	2501-97	100-5	100-20	100-19
<b>Environmental</b>									
Applicability in all mediums at all times	+	+	+	-	-	+	+	-	+
Ranges the entire spectrum of operations in all levels of intensity	+	+	+	-	-	+	+	-	+
Acknowledges the advancement of new technology	+	+	+	-	-	+	+	-	-
<b>Operational</b>									
Unilateral employment	+	+	+	-	+	+	+	+	+
Joint employment	+	+	+	-	+	+	+	+	+
Interagency agreements	+	+	+	-	+	+	+	+	+

Source: Weimer 1998, 51

## The Leaves of the Tree: Organizational and Tactical Doctrine

The final category for evaluation concerns the organizational and tactical doctrine. This level of doctrine is narrow in scope. It focuses on the tactical level of operations or more particularly the tactics, techniques, and procedures that a force will use to accomplish the mission. Additionally, the level of doctrine must change to remain current. Unlike the underlying principles of fundamental and environmental doctrine, this level of doctrine will evolve to incorporate new technologies and capabilities. One will note that at the beginning of this chapter, two doctrinal manuals were listed on the current doctrine hierarchy diagram. Seeing that the majority of the Army doctrinal manuals are written at this level, these two manuals were chosen at random. Having served in units that used these manuals only helps in my assessment of the current doctrine. Field Manual 71-123, *Tactics and Techniques For Combined Arms Heavy Forces: Armored Brigade, Battalion/Task Force, and Company/Team 1992*, and FM 71-1, *Tank and Mechanized Infantry Company Team 1998*, are the two manuals that will be assessed. Unfortunately both manuals failed to adequately address WMD consequence management operations. In fact, little to no text was provided concerning the topic of military support to civil authorities. Instead the manuals referred readers to FM 100-19 for clarification and information concerning such operations. FM 71-123 fails to mention domestic support operations, let alone WMD consequence management operations. One of the Army's premier tactics, techniques and procedure (TTP) manuals for the armor/mechanized units for brigade level and below totally admits the mission. The manual, while it mentions domestic operations fails to provide and

TTPs for specific missions. The manual fails to meet the organizational or tactical criteria.

FM 71-1, one of the more recent Army doctrinal manuals, fares somewhat better than FM 71-123. This manual covers support to domestic civil authority under the title of stability activities. Unfortunately, the manual contains only a brief description of the mission and refers the reader to FM 100-19 for further guidance. The manual makes no mention of specific domestic support operations or of WMD operations. FM 71-1 fails to meet the organizational criteria.

FM 71-1 provides numerous TTPs that apply to stability operations. Unfortunately, these TTPs point to operations outside the confines of the United States. FM 71-1 fails to meet the tactical criteria. The TTPs can, however, serve as a basis for developing and adapting doctrine at the tactical level for WMD consequence management operations. Further discussion concerning this topic will be addressed in chapter 5.

A gap in the organizational and tactical doctrine truly exists. Table 10 clearly shows the shortcomings in this area. The results show a need to develop, adapt, and update the Army’s tactical doctrinal manuals.

Table 10. Organizational/Tactical Doctrine

	<b>FM 71-123</b>	<b>FM 71-1</b>
<b>Organizational</b>		
<b>Acknowledged existence</b>	-	-
<b>Tactical</b>		
<b>TTPs meet DoD standards</b>	-	-

## The Roots: Military History

Finally, the importance of military history must be considered. Col. Drew assimilates military history as the roots of the tree. Upon the roots, or military history, all doctrine is based. This being so, the Army must consider the past, the experiences, in order to formulate relevant doctrine. The Army must look to both the failures and successes of the past when developing our new doctrine. In the case of WMD consequence management operations, looking to many of the Army's domestic operations of the past such as Kent State, the Los Angeles riots, and the bombing in Oklahoma City may help in capturing the lessons that we perceive will hopefully lead to success in the future. It is pertinent to remember however, that not all lessons of the past, whether they were a success or failure, will lead to successful operations in the future. It is for this very reason that doctrine, especially at the lower levels of the hierarchy, is constantly maturing and evolving.

Failure to continuously develop doctrine at the lower levels leads to the findings portrayed in table 10. In order for our forces to be prepared to conduct the tactical missions of the future, the doctrine must be up to date from the strategic to the tactical level. In the case of WMD consequence management operations this is clearly not the case. If an incident were to occur today, the army units responding would come to the incident with their current doctrine. In this age of ever-decreasing budgets and fewer and fewer training opportunities this may be acceptable to some. Frankly, that is an unfortunate excuse. The Army will always accomplish the mission. Whether the Army can accomplish the tasks to a standard acceptable to the American people at this time is questionable.

Based on the analysis of this chapter and the answers to the three subordinate questions in the third chapter it is time to tie together the results. Chapter 5 will bring forth the conclusions from chapters 3 and 4 and make recommendations for further development of WMD consequence management operations doctrine.

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

This thesis began with a number of questions, the answers to which hopefully would reveal shortcomings in the Army's current WMD consequence management operations doctrine.

First to be determined was the legal issues that govern the present and future use of federal forces within the confines of the national borders. This is an extremely important part of the study due to the great emotions and suspicions raised by the public when federal troops are employed within the United States. The study provides the numerous documents that permit and restrict the use of federal forces within the United States. While the Posse Comitatus Act of 1878 appears to be the "buzzword" anytime a deployment is considered, one must remember that the other laws discussed in chapter 3, such as Title 10 and the Stafford Disaster Relief Act, apply as well. Therefore, as the military and other federal and civilian agencies serve together there should be a constant review of the laws that apply to WMD consequence management operations. Working and training together over time could result in a "greater chance of blurring the law" (Seiple 1997, 132). There may be a time when the law in and of itself may need to be revised based on the needs and capabilities of the military and civilian agencies. At this time no recommendation is being made to revise or rewrite the current laws. Rather, the first recommendation from this thesis is that the legal ramifications that permit the use of federal troops be reviewed for the further development of WMD consequence management operations doctrine.

As the doctrine is developed the legal limitations of the military should be briefed to the various agencies at local, state, and federal levels that the military will support. As witnessed in the DOMS “Measured Response” exercises in Omaha, Nebraska, there is a lot of confusion and misunderstanding concerning the legal issues that the military is governed by. Misunderstanding of the laws leads to confusion and conflict especially if it occurs during an actual operation. Neither the military nor society can afford to have a response to a WMD incident hindered due to the fact that there are different expectations of what the military can and can not do.

The second question addressed whether there was evidence for future use of the U.S. Army in support of the threat and possible use of WMD. Throughout the study, many recent Presidential Decision Directives, DoD Directives and governmental programs point to the future use of Army forces in support of WMD consequence management operations. As such the Army should have seen this requirement for current and future use demonstrated throughout the doctrinal hierarchy. Unfortunately the results were not consistent. This very issue will be addressed later in this chapter.

Finally, the Army had to examine whether the doctrine that they follow today supports the use of the Army in response to the threat/use of WMD. Using the model created by Col. Drew (Ret) (U.S.A.F.) we examined the current doctrine in the context of the fundamental, environmental, and organizational framework. The model provided a definable foundation by which to identify areas where the current doctrine failed to support WMD operations. The results reached were mixed.

The fundamental doctrine was mostly sound in addressing WMD consequence management operations. Basic beliefs about WMD operations were evident in the

doctrinal manuals reviewed. The beliefs had a timeless quality and for the most part, were not invalidated by changing political or technological advances.

It is here where the writers of our fundamental doctrine must pay further attention. The ever-increasing amount of taxpayer's money being spent on this issue must be nested across the board. Too often technological advances are not incorporated sufficiently into the programs and doctrine. As a result, we see various agencies better prepared to react than others do. The fundamental doctrine, which establishes the foundation for all subordinate doctrine, must incorporate the proper programs and relationships to ensure the sharing of new technologies. This must be clearly mandated by the documents at this level.

The results reached at the environmental level were also mixed. The DoD directives, reports, and plans provided strong evidence of the applicability and levels of intensity under which these operations may take place. Furthermore, the DoD documents acknowledged the advancement of new technologies to further prepare the Army for response to such incidents. Joint Publications did not support the criteria of the environmental doctrine. In fact, the Joint Publications fail to meet any of the criteria. It is clear that the fundamental doctrine, while sound overall, has not reinforced the joint doctrine concerning this matter. WMD operations need to be included in both publications. Currently, the publications provide no basis for the individual services, and in this case the Army, under which to develop their WMD consequence management operations. Joint publications, such as JP 3-07, must be rewritten to incorporate the new policies from above in the doctrine hierarchy. Failure to do so leads to confusion and insufficient doctrine at subordinate levels.

The Army specific manuals overall meet the criteria for the environmental doctrine. The depth within which they discuss WMD operations is extremely limited and should be expanded on. In fact FM 100-20, as depicted in Table 8, fails to meet any of the criteria. The failure to address the doctrine in FM 100-20 and the lack of significant detail in the other Army manuals in due part point to the lack of organizational and tactical doctrine in Army specific manuals. The results of this study point to the need for much greater detail concerning the topic in the Army's environmental doctrine. Doctrine at the environmental and organizational levels must evolve. Apparently this has not happened. The rate at which current field manuals are updated is part of the problem. Unfortunately, a terrorist may not afford us the time within which to get the doctrine straight before attacking the U.S. with a WMD device.

The organizational level of doctrine is almost nonexistent. The Army field manuals failed to acknowledge the existence of WMD consequence management operations. Many officials may point to this fact and say that this is just a condition, much like mountainous terrain or the jungle. Nothing can be further from the truth. Domestic operations are inherently different. WMD operations must be addressed as possible deployments for the force.

The Army bases its training cycles and exercises on the missions mandated by the respective Commanders in Chief. If WMD operations are not listed as a 'requirement' to be prepared for, it will go untrained. Likewise even if it were mandated as a possible mission today, there is little to no doctrinal foundation upon which the Army would base the training standards. Further discussion regarding these facts will be addressed under the recommendations for tactical doctrine.

The strategic level of doctrine, much like those already discussed met mixed results in the analysis. Most significant however was the failure of the identification of the ways and means that WMD operations will be conducted. Once again, the exclusion of such pertinent information only rolls down the doctrinal hierarchy. The tactical level will fail to identify the tasks necessary for training. It is no surprise that is the result of our current strategic doctrine. The doctrinal manuals, publications, and directives at the strategic level must agree in the identification of the ends, ways, and means concerning WMD consequence management operations. The *National Military Strategy*, for example, failed to identify any of the strategic criteria. At almost two years old the document provides no guidance concerning this issue. It must be rewritten. While neither my purpose nor position is one from which to demand anything from the joint staff, the failure to closely follow the National Security Strategy, which was published in October of 1998, over six months ago, only extends the time for subordinate doctrine to make changes.

The analysis of the operational doctrine revealed good results. Operationally, the doctrine appears to be sound. The only shortcoming was the one joint publication reviewed. The comments and recommendations regarding this publication have already been made in the discussion of the environmental doctrine. Despite the good results a caution should be voiced concerning the operational doctrine. As the Army has consistently changed titles from Military Operations Other than War to Stability and Support Operations, care must be given to capture the doctrine required to accomplish the mission. Many of the manuals analyzed under this category covered the topic under different titles and chapters. Failure to properly address the issue from the start is leading

to the misunderstanding of the tasks required for WMD consequence management operations training. In this case, there is a complete misunderstanding, for the tactical doctrinal manuals fail to mention the issue or, for that matter, even adequately address any domestic operations.

As already seen in chapter 4 the tactical doctrine is wholly inadequate. The Army's stance that we train for war and can take care of everything else by tailoring the force structure and ROE may be applicable outside the United States, but it is not applicable for domestic operations. Yes, the Army must be ready for war and I am not advocating the establishment of homeland defense units, especially for the active Army that is already over-stretched with deployments. For a good discussion concerning the homeland defense units, see Lieutenant Colonel Melvin G. Spiese's monograph "The National Guard and WMD Homeland Defense." Rather what I am recommending is the development of the doctrine that will help the soldiers survive, and accomplish the mission on the domestic WMD battlefield.

Current tactics will not work on the domestic battlefield. Establishing blocking positions and assembly areas with M1 tanks and M2 Bradleys will fail from the start. We as an Army need to find a way to operate and yet fulfill the mission to the American people while maintaining their trust and confidence. Are the soldiers supposed to patrol the streets of America if called to do so after an incident with their Bradleys and M240G machineguns? How are they to handle the vehicle that runs their roadblock or blocking position? Can they use lethal force to stop riots by citizens demanding food, relief supplies, and demanding access to their homes that are in a contaminated area? The

questions are almost limitless and the answers are nowhere to be found in doctrinal manuals.

Our tactical doctrine must be re written to incorporate the tasks the Army will be required to perform. The Army must look beyond the individual skills of the soldier, which will require little adaptation to the WMD battlefield. Concentration should be placed on the unit level tasks. This list, though not all inclusive, provides a starting point:

1. Planning the lodgment area
2. Establish a blocking position/roadblock
3. Establish observation points
4. Establish checkpoints
5. Conduct patrol operations
6. Conduct convoy operations
7. Actions on contact
8. Protect sensitive areas/facilities
9. Riot control
10. Show of force
11. Disperse crowds
12. Provide security for emergency crews/emergency equipment
13. Provide reserve/quick reaction force
14. Manage traffic points
15. Search and Rescue operations
16. Fire fighting
17. Graves registration

Critical will be the identification and incorporation of new techniques and capabilities into the tasks required. Additionally, these tasks, conducted at the small unit level must be nested with the doctrine developed for the higher echelons. The result will be a doctrinal hierarchy that is sound from the fundamental to the organizational level.

Much has been said of the recognition of new technologies throughout this study. New technologies such as non-lethal weapons should be included in the planning and training for WMD consequence management operations. The sight of an American soldier killing a fellow citizen bypassing a roadblock attempting to gain access to food will not settle well with the American public. The new technologies that are available and applicable to the military are a subject for possible further study.

Once the tasks are identified they must be trained. The training must incorporate the latest technologies available to the soldier and the unit. Furthermore the capabilities of the force must be demonstrated for the supported civilian agencies. It is here again that Army revisits the legal ramifications of the issue. As new technologies and capabilities are developed the Army must ensure they do not cross the line established by Posse Comitatus.

It is important to note here that training in and of itself at the unit level is not enough. As witnessed during the Measured Response exercise in Omaha, Nebraska, the Army consistently sees small incidents that require minimal support from federal forces. While the training conducted by DOMs for the 120 cities throughout the United States is beneficial it is not testing our response capability. As the Army does not rely on simulations alone to train our brigades for combat, they can not rely on tabletop exercises to prepare for a WMD incident. The Army needs the NTC equivalent size exercise. The

exercises conducted by DOMs are based on small chemical munitions that affect anywhere from a few to over a couple of hundred casualties. The Army needs to conduct rehearsals that involve the equivalent of a football stadium full of victims. Thousands of casualties, not just a few hundred, will truly test the doctrine and the ability to respond.

As the United States continues to flex its economic and military muscle throughout the world with little to no chance for the adversaries to respond in kind, they will look for another avenue to seek their revenge. Many have called it America's Achilles heel. Perhaps they are correct. The Army prides themselves in their liberties and individualism. The Army feels secure nestled on the east and west by vast oceans. Today those in leadership positions know that the borders are penetrable by terrorists and rogue states. The Army has seen it happen before, it will most likely happen again. Perhaps there is no policy that can prevent the use of WMD in the United States, acceptable or unacceptable as that may be to the public. There is, however, no excuse for the lack of readiness to properly respond.

APPENDIX A

**USE OF ARMY AND AIR FORCE AS POSSE COMITATUS**

18 USC Sec. 1385

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

**PART I - CRIMES**

CHAPTER 67 - MILITARY AND NAVY

Sec. 1385. Use of Army and Air Force as posse comitatus

-STATUTE-

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.

-SOURCE-

(Added Aug. 10, 1956, ch. 1041, Sec. 18(a), 70A Stat. 626; amended June 25, 1959, Pub.

L. 86-70, Sec. 17(d), 73 Stat. 144; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, Sec.

330016(1)(L), 108 Stat. 2147.)

-MISC1-

Historical and Revision Note

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1385	10:15.	June 18, 1878, ch.263
Sec. 15,	20 Stat. 152	Mar. 3, 1899, ch. 429
Sec.363(proviso)		added June 6, 1900, ch. 786
Sec. 29(less last proviso)	31 Stat. 330.	

This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

#### AMENDMENTS

1994 - Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000".

1959 - Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 831 of this title.

#### EXPLANATORY NOTES

This section is revised to conform to the style and terminology used in Title 18. It is not enacted as a part of Title 10, United States Code, since it is more properly allocated to Title 18.

#### 1959 AGREEMENT

Pub.L. 86-70 eliminated provisions which made section inapplicable in Alaska.

#### LEGISLATIVE HISTORY

For legislative history and purpose of Pub.L. 86-70, see 1959 U.S. Code Cong. And Adm. News, p. 1675.

#### CROSS REFERENCES

Assistance from Secretary of Defense in enforcement of prohibition of transactions involving nuclear materials, see section 831 of this title.

#### WEST'S FEDERAL FORMS

Sentence and fine, see sec. 7531 et seq.

## LIBRARY REFERENCES

Armed Services 3.

C.J.S. Army and Navy sec. 3.

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## **1. Construction**

In criminal proceeding in which accused filed motion to dismiss or suppress based, in part, on asserted violations of this section, doctrine that penal statutes are to be strictly

construed was not applicable in determining whether this section applied to United States Coast Guard. *Jackson v. State, Alaska* 1977, 572 P.2d 87.

## **2. Construction with other laws**

This section which prohibits willful use of any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws without the express authorization of Congress or the Constitution must be interpreted in the light of statutory framework which surrounds it, including former section 686 of Title 31 [now sections 1535 and 1536 of Title 31] which authorized any department or agency of the government to “place orders” for materials, supplies, equipment, work or services of any kind that the requisitioned federal agency may be in a position to supply. *U.S. v. McArthur, D.C.N.D.*1975, 419 F.Supp. 186, affirmed 541 F.2d 1275.

The President’s authority to use Federal troops under sections 332 and 333 of Title 10 is not impaired by this section. 1957, 41 Op. Atty. Gen., Nov. 7.

## **3. Purpose**

Original purpose of this section was to put end to use of federal troops to police state elections in ex-Confederate states where civil power had been reestablished. *U.S. v. Hartley, D.C. Fla.* 1980, 486 F. Supp. 1348.

It is the nature of their primary mission that military personnel must be trained to operate under circumstances where the protection of constitutional freedoms cannot receive the consideration needed in order to assure their preservation, and this section prohibiting use of any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws, except in certain cases, is intended to meet that danger. *U.S. v. McArthur, D.C.N.D.* 1975, 419 F. Supp. 186, affirmed 541 F. 2d 1275.

Purpose of this section is to preclude direct active use of federal troops in aid of execution of civilian laws, and where city police department did not use military policemen to execute civilian law but, rather, patrolled street for purpose of removing military personnel from situations potentially involving breach of civil law, there was no violation of this section. *State v. Sanders*, 1981, 281 S.E.2d 7, 303 N.C. 608, certiorari denied 102 S. Ct. 523, 454 U.S. 973, 70 L. Ed. 2d 392.

Legislative purpose of this section is to preclude direct active use of federal troops in aid of execution of civilian laws, but passive activities of military authorities which incidentally aid civilian law enforcement are not precluded. *State v. Nelson*, 1979, 260 S.E. 2d 629, 298 N.C. 573, certiorari denied 100 S. Ct. 1867, 446 U.S. 929, 64 L.Ed. 2d 282.

#### **4. Generally**

The armed services are precluded from assisting local law enforcement officers in carrying out their duties. *Wrynn v. U.S.*, D.C.N.Y. 1961, 200 F. Supp. 457.

#### **5. Armed Forces within section – Generally**

Failure to include the Navy and Marines in the text of this section does not indicate congressional approval of use of navy or marine personnel to enforce civilian laws for this section is applicable to all of armed services. *U.S. v. Walden*, C.A.Va. 1974, 490 F.2d 372, certiorari denied 94 S.Ct. 2385, 416 U.S. 983, 40 L.Ed.2d 760, rehearing denied 94 S.Ct. 3187, 417 U.S. 977, 41 L.Ed.2d 1148.

This section applies to all branches of the federal military. *People v. Blend*, 1981, 175 Cal. Rptr. 263, 121 C.A.3d 215.

#### **6. Army**

Special operations group of the United States marshal service is not an “army” within Constitution of United States or within this section. U.S. v. Jaramillo, D.C. Neb. 1974, 380 F.Supp. 1375, appeal dismissed 510 F.2d 808, 30 A.L.R.FED. 647.

## **7. Coast Guard**

This section, prohibiting use of the military services in civil law enforcement, is not applicable to the Coast Guard. U.S. v. Chaparro-Almeida, C.A.La. 1982, 679 F.2d 423, certiorari denied 103 S.Ct. 801, 459 U.S. 1156, 74 L.Ed.2d 1004.

This section does not apply to United States Coast Guard. Jackson v. State, Alaska 1977, 572 P.2d 87.

## **8. Execution of laws**

Under this section, which prohibits use of a part of the Army or Air Force to “execute” the law except in certain circumstances, the term “execute” implies an authoritarian act. U.S. v. McArthur, D.C.N.D. 1975, 419 F.Supp. 186, affirmed 541 F.2d 1275.

By use of the clause “to execute the laws” in this section, Congress intended to make unlawful the direct active participation of federal military troops in law enforcement activities; Congress did not intend to make unlawful the involvement of federal troops in a passive role in fulfilling law enforcement activities. U.S. v. Red Feather, D.C.S.D. 1975, 392 F.Supp. 916.

## **9. Civilian or military status**

Activity of Naval enlisted person, in setting up transaction in which member of California sheriff’s narcotics task force bought cocaine from defendant at Naval air station, did not violate this section, in light of fact that Wave was on leave at time of her participation in the transaction, that military personnel had not approved and were not aware of her

participation, that her violation of West's Ann. Health & Safety Code, sec. 11352, which was basis of her contact with civilian law enforcement, occurred off base, that Wave was not regularly in law enforcement activities with military, and that her usefulness to civil law enforcement, as an informant on fellow drug offenders, was unrelated to fact that she was a Wave. *People v. Blend*, 1981, 175 Cal.Rptr. 263, 121 C.A.3d 215.

Assistance to police officers rendered by member of the United States Air Force in purchasing drugs from defendants, which although given following issuance of warrant charging him with selling three ounces of marijuana, was not induced, required or ordered by Air Force officials, was of a personal nature, unrelated to his status as a military man, and did not violate this section prohibiting use of the Army or the Air Force to execute the law. *People v. Burden*, 1981, 303 N.W.2d 444, 411 Mich. 56.

#### **10. Intent**

Where there was no indication that purpose of involvement of Marine Corps law enforcement personnel, in concert with federal, state and local agents, was motivated by objective to aid in execution of civilian law but on the contrary, facts showed purpose to control drug distribution involving military personnel, and marine investigation centered on military personnel, specifically focusing on accused, whereas primary interest of civilian task force investigators was drug trafficking within civilian community, accused's original apprehension by team of law enforcement personnel did not involve violation of principle of "posse comitatus." *U.S. v. Brown*, NCMR 1980, 9 M.J. 666.

#### **11. On-base violations**

This section which was enacted during reconstruction period to eliminate direct active use of federal troops by civil authorities, does not prohibit military personnel from acting

upon on-base violations committed by civilians. *U.S. v. Banks*, C.A. Wash. 1976, 539 F.2d 14, certiorari denied 97 S.Ct. 644, 429 U.S. 1024, 50 L.Ed.2d 626.

## **12. Uses prohibited – Generally**

The feared use of the Army or Air Force which is prohibited by this section is that which is regulatory, proscriptive, or compulsory in nature, and causes the citizens to be presently or prospectively subject to regulations, proscriptions, or compulsions imposed by military authority. *U.S. v. McArthur*, D.C.N.D. 1975, 419 F.Supp. 186, affirmed 541 F.2d 1275.

## **13. Apprehension of military personnel**

Military policemen's duty was not to execute civilian law but to assist police department in returning apprehended military personnel to fort. *State v. Sanders*, 1981, 281 S.E.2d 7, 303 N.C. 608, certiorari denied 102 S.Ct. 523, 454 U.S. 973, 70 L.Ed.2d 392.

## **14. Furnishing equipment or material**

This section refers to direct active use of army or air force personnel and does not preclude the use of army or air force equipment or material. *U.S. v. Red Feather*, D.C.S.D. 1975, 392 F.Supp. 916.

Army's furnishing of material and equipment to Federal Bureau of Investigation agents and United States marshals in connection with civil disorder did not violate this section. *U.S. v. Jaramillo*, D.C.Neb. 1974, 380 F.Supp. 1375, appeal dismissed 510 F.2d 808, 30 A.L.R.FED. 647.

## **15. Investigations**

Participation of military inspectors in investigation of alleged defraud government by supplying breaded shrimp that did not conform to designated military specifications did

not violate this section where inspectors had merely exercised their responsibilities pursuant to contract between government and defendant shrimp producers in order or assure quality of shrimp purchased, and military aided civilian employee in charge of investigation only to extent of activities normally performed in ordinary course of their duties. *U.S. v. Hartley*, C.A.Fla. 1982, 678 F.2d 961, rehearing denied 688 F.2d 852, certiorari denied 103 S.Ct. 815, 834, 459 U.S. 1170, 1183, 74 L.Ed.2d 1014, 1027.

Where activities of military personnel in connection with investigation of suspected switching of boxes of shrimp reserved for inspection did not constitute direct active involvement in execution of laws, nor did use of military personnel pervade activities of civilian authorities, but, rather, investigation was civilian investigation originating from within Department of Defense and investigation by its very nature involved military personnel acting at direction of Defense Investigative Services, the investigative arm of Department of Defense, who were performing functions they would normally perform in course of their duties regarding inspections and testing to be used by military, there was no violation of this section. *U.S. v. Hartley*, D.C.Fla. 1980, 486 F.Supp. 1348.

This section does not proscribe joint investigatory techniques and, where primary military purpose is motivation behind use of armed forces personnel, no violation occurs from incidental enforcement of civilian law. *U.S. v. Brown*, NCMR 1980, 9 M.J. 666.

This section was not violated during early investigation of murder where military officers gave police officials assistance by making member of armed services available for questioning, supplying room for that purpose, and cooperating in search of suspect's quarters. *Com. V. Shadron*, 1977, 370 A.2d 697, 471 Pa. 461.

Mere fact that Naval investigative service, on occasions in which it was informed of sheriff's narcotics task force's investigation of defendant, provided member of such force with a pass to enter Naval air station did not violate this section. *People v. Blend*, 1981, 175 Cal.Rptr. 263, 121 C.A.3d 215.

Where defendant, an officer in United States Army, was subject to military discipline and control, his illicit drug dealings were of direct concern to agents of Army Criminal Investigation Division in performing their own duties, and such part as agent or other Army personnel played in connection with civilian investigation into defendant's violations of state laws was at all times passive, there was no use of "any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws" in violation of this section. *State v. Trueblood*, 1980, 46, N.C. App. 541, 265 S.E.2d 662.

#### **16. Parade participation**

Army reservist could be ordered to participate in a parade to be held as part of program of national convention of veterans' organization even if the organization supported a political viewpoint with which reservist was not in sympathy, provided that the parade was not coextensive with or held on the same day as the appearance or any speech before the convention of any candidate of any party for either the presidency or the vice-presidency. *Jones v. U.S. Secretary of Defense*, D.C. Minn. 1972, 346 F.Supp. 97.

#### **17. Surrender of evidence**

Military authorities' surrender of evidence which had been obtained in military inventory of arrested soldiers' billets, to civilian authorities for use in civilian criminal prosecution of soldiers was only a passive involvement in enforcement of civilian law and did not

violate this section. *State v. Nelson*, 1979, 260 S.E.2d 629, 298, N.C. 573, certiorari denied 100 S.Ct. 1867, 446 U.S. 929, 64 L.Ed.2d 282.

### **18. Private right of action**

Portion of complaint brought by residents of Wounded Knee, South Dakota, who were allegedly kept from their homes or forcibly confined due to federal law enforcement activity allegedly engineered by defendants which alleged violations of this section, did not state causes of action since this section did not provide a private cause of action.

*Lamont v. Haig*, D.C.S.D. 1982, 539 F.Supp. 552.

### **19. Estoppel**

Despite ruling in previous case that this section precluded prosecutions under section 231 of this title prohibiting attempts to interfere with law enforcement officers while such officers were performing duties incident to and during civil disorder, district court was not bound by such ruling in subsequent prosecution under section 231 of this title in view of fact that issue as to whether this section precluded prosecutions under facts of the case was a question of law. *U.S. v. McArthur*, D.C.N.D. 1975, 419 F.Supp. 186, affirmed 541 F.2d 1275.

### **20. Presumptions**

Order requiring army reservists to participate in parade to be held as part of program of national convention of veterans' organization had strong presumption of validity. *Jones v. U.S. Secretary of Defense*, D.C. Minn. 1972, 346 F.Supp. 97.

### **21. Admissibility of evidence – Generally**

Evidence of use of army or air force material, supplies, or equipment of any type or character by United States marshals or agents of Federal Bureau of Investigation to

execute laws during occupation of village of Wounded Knee would not be evidence of unlawful conduct by officers and thus was irrelevant, immaterial, and inadmissible to disprove that defendants interfered with law enforcement officers in lawful performance of their official duties. *U.S. v. Red Feather*, D.C.S.D. 1975, 392 F.Supp. 916.

Testimony of provost marshal's investigator for Criminal Investigation Department office at military reservation as to his purchase of narcotic drugs from defendant with money given him by city police officer was not incompetent by virtue of federal prohibition against his acting as a posse comitatus where investigator did not attempt to arrest defendant or to assert any military authority over him. *Lee v. State*, Okl.Cr. 1973, 513 P.2d 125, certiorari denied 94 S.Ct. 1445, 415 U.S. 932, 39 L.Ed.2d 490.

## **22. Illegally seized evidence**

Even if activities of Army Criminal Investigation Division agents resulting in defendant's arrest on drug charges was violative of this section, application of exclusionary rule was not required, and motion to suppress was properly denied. *U.S. v. Wolfs*, C.A.Ga. 1979, 594 F.2d 77.

Even if there was violation of this section, exclusion of evidence which was product of violation would be inappropriate; exclusionary rule is not to apply to violations of this section unless one is later fashioned by Fifth Circuit. *U.S. v. Hartley*, D.C.Fla. 1980, 486 F.Supp. 1348.

Violations of this section, which prohibits use of military personnel for enforcement of civil law, does not necessitate automatic invocation of exclusionary rule. *Taylor v. State*. Okl.Cr. 1982, 645 P.2d 522.

Violation of this section allegedly occurring in defendant's arrest on military base did not entitle him to application of exclusionary rule to evidence taken from him during such arrest. *Harker v. State*, Alaska App. 1981, 637 P.2d 716, affirmed 663 P.2d 932.

Violation of this section does not call for invocation of exclusionary rule. *State v. Sanders*, 1981, 281 S.E.2d 7, 303 N.C. 608 certiorari denied 102 S.Ct. 523, 454 U.S. 973, 70 L.Ed.2d 392.

Violation of this section does not call for invocation of exclusionary rule, and thus even if violation of this section had occurred in state criminal case concerning illicit drug dealings of defendant, an officer in United States Army, there would have been no error in trial court's denial of defendant's motion to suppress. *State v. Trueblood*, N.C. App. 1980, 265 S.E.2d 662.

Violation of this section proscribing use of Army and Air Force as posse comitatus would not call for exclusion of evidence surrendered by military to civilian authorities. *State v. Nelson*, 1979, 260 S.E.2d 629, 298 N.C. 573, certiorari denied 100 S.Ct. 1867, 446 U.S. 929, 64 L.Ed.2d 282.

### **23. Competency of witnesses**

Military criminal investigators, who turned over to city police at city police station the drugs which they purchased from defendant off the military post, were not incompetent as witnesses in prosecution for sale of lysergic acid diethylamide despite federal prohibition against them acting as posse comitatus. *Hildebrandt v. State*, Okl.Cr. 1973, 507 P.2d 1323.

Military Criminal Investigation Department agents were not incompetent as witnesses in prosecution for sale of marijuana despite a federal prohibition against them acting as

posse comitatus, where evidence established that local law enforcement authorities did not summon military agents' assistance and, to contrary, were contacted by agents, who were investigating a soldier from whom they had previously purchased narcotics and proceeded to determine his source of supply, and soldier had led agents to a location outside scope of their military jurisdiction, at which time agents assumed no greater authority than that of a private citizen. *Hubert v. State*, Okl.Cr. 1972, 504 P.2d 1245.

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