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In the Post Cold-War and 9/11 Environment  
the United States Requires a New Force:  
A Model for a Constabulary Force

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## **Abstract**

In the post Cold War and 9/11 environment, the chief threats to United States and international security come from weakened or failed states. A key element in responding to this threat is the capability to build and foster institutions that support of the rule of law in those states. The US has two programs that partly provide the capabilities required, but the programs have significant weaknesses. For this reason, the US has turned to its military to carry out the mission of nation building to include establishing the rule of law and creating the criminal justice institutions responsible for its administration. The US military is ill-equipped and ill-prepared for this responsibility, a responsibility the military does not feel it is suited to carry out. The military also resists the responsibility because nation building missions are viewed to distract the military from its primary mission of war fighting.

A proposed constabulary force model is presented that can meet the needs of the US in how it responds to weakened or failed states or states they are in as an occupying force. The constabulary force would have a domestic role, supporting the agencies of the Department of Homeland Security and would deploy on contingency operations under the oversight of the State Department as part of a nation building team. While there are challenges to implementation, the model provides a viable and much needed force option that must be created to better enable the US to win its global war on terrorism.

*The chief threats to us and to world order come from weak, collapsed, or failed states. Learning how to fix such states- and building necessary political support at home-will be a defining issue for America in the century ahead.*<sup>1</sup>

## **Introduction**

Since the end of the Cold War, the United States (US) has frequently gotten involved in nation-building and since 9/11, the recognition of the linkage of weakened or failed states to terrorism has created a greater need for involvement in nation-building. The end of the Cold War reduced the possibility of conflicts between major powers but it lifted perceived constraints on proxy wars with the result being that more than forty some conflicts exist today in the world. Many already have US forces involved, while the potential exist for the US to be drawn to many others over the coming years.<sup>2</sup> In fact, within the past fifteen years, the US has gotten involved in a new nation-building mission every other year.<sup>3</sup> Today, US military forces are conducting nation-building operations in the Balkans, Afghanistan, Iraq and Haiti. In each of these operations, the American military is involved in establishing security and policing operations, but the military is not the appropriate actor for institution building or state building which has as an initial, essential component of establishing the rule of law. Not only is establishing the rule of law and an effective criminal justice system an integral part of a nation-building plan, it is also a key element in the exit strategy for the military. These tasks can only be effectively accomplished by a civilian capacity that is properly resourced.<sup>4</sup>

The US military remains engaged in policing operations as part of institution building because serious thought has not been given about how to more effectively and efficiently handle civil strife and establish the rule of law. Measures taken to provide some type of alternative force that can help establish the rule of law have been half-steps and remain largely inadequate. The US

Civilian Police (CIVPOL) program administered by the State Department has no statutory authority and is run on an ad hoc basis with appropriations provided on an annual basis.<sup>5</sup> As well, the program, which is administered by a contractor, has numerous shortcomings. The gaps in the CIVPOL program force the US to default to its military. However, the US military has resisted performing constabulary type duties, a role it has, nevertheless, been forced into over the last fifteen years. Since the Korean War and the US Army's failure with Task Force Smith, an experience believed to have been caused by the Army's focus on constabulary duties in Europe and Japan, it has fought against any operation related to policing and is therefore inadequately prepared for the task.<sup>6</sup> As the US has no national police force, it has no organization immediately available other than the military to employ after the fighting stops and the task at hand becomes establishing the rule of law. Strategic circumstances are creating adverse conditions that will require solutions to effectively and efficiently win the global war on terrorism (GWOT). A constabulary force provides one possible solution.

In the post Cold War and 9/11 environment, a new force is required in the spectrum of capabilities the US brings to bare on national security threats. This paper is a strategically and politically aware proposal to spur the movement to create such a force. The aim of this paper is to provide a proposed force model that can overcome the challenges to the creation of a constabulary in the US.

In addressing the issues, the paper will first examine the current US policing capabilities in stability and nation building operations. With significant shortfalls identified in US capabilities, the paper will then examine the strategic implications related to the shortfalls and will then propose a force as a remedy. The force proposal will include how the force is organized, its

command and control and how it will be manned, equipped, and trained. There are various challenges to implementing the proposal, and those will be explored as well.

### **Current US Policing Capabilities in Stability/Nation-Building Operations**

The US has three means by which it conducts policing operations or police training in foreign countries: the US CIVPOL program administered by the State Department's Bureau of International Narcotics and Law Enforcement Affairs, the United States Department of Justice (DOJ) International Criminal Investigative Training Assistance Program (ICITAP), and conventional military forces provided by the Department of Defense (DoD). The two programs and DoD's capabilities, however, are not synchronized; there is little to no coordination amongst them and there is "no overall vision" from the National Security Council (NSC). The programs are generally run on an ad hoc basis and "are used haphazardly."<sup>7</sup> Only the military and CIVPOL actually provide a capability to conduct policing operations during stability operations or nation-building missions. ICITAP provides only technical advice, training, mentoring, and equipping through donations to countries throughout the world.<sup>8</sup>

While ICITAP receives by far the least criticism of the three in regard to contributions to policing in unstable environments, it too has challenges. ICITAP, while, successful in training missions in over 50 countries since its establishment in 1986, faces a challenge that is common in international policing; it has a bifurcated hierarchy where the responsible department is DOJ, but funding flows through the State Department and the US Agency for International Development (USAID).<sup>9</sup> While DOJ has the most links to domestic law enforcement and certainly more expertise in the law enforcement arena, it has no real interest or broader responsibility for the success of foreign nation-building activities. Rachel Bronson, Olin Senior

Fellow and Director of Middle East Studies at the Council on Foreign Relations, suggests that the program is adrift in DOJ and has recommended that the White House realign the function.<sup>10</sup>

Perhaps the greatest irony, though, is that ICITAP, in order to carry out any mission, must have a waiver or specific legislation authorizing conduct of the mission. In 1974, following several human rights abuses by foreign police forces that had graduates from USAID's Office of Public Security's police training program, Congress banned US assistance to foreign police.<sup>11</sup> Despite years of recognition of the importance of the contributions of the "development of police forces in international peacekeeping operations, and the enhancement of capabilities of existing police forces in emerging democracies with assistance provided based on internationally recognized principles of human rights, rule of law and modern police practices," Congress has yet to rescind the prohibition.<sup>12</sup> This situation at the peak of the pyramid of national policy is very representative of how the US has handled policing assistance. It is a system that has developed in spite of itself, on an ad hoc basis with numerous contradictions in the system.

Despite banning foreign assistance to police forces in 1974, the US has since become the largest contributor of personnel, money and equipment in international police missions in peace operations. The greatest contributions have come through the CIVPOL program which prior to Operation Iraqi Freedom had as many as 850 officers deployed per year with the greatest contribution to Kosovo.<sup>13</sup> It is unclear as to how many CIVPOL officers are in Iraq, but the website for the contracting firm that handles the administration of the CIVPOL program for the State Department advertises that they are recruiting to fill 1,000 positions.<sup>14</sup> Much of the controversy surrounding the CIVPOL program and related weaknesses involves its administration by DynCorp Corporation. It is of questionable appropriateness for a private firm

to be carrying out what is deemed by many as an inherent government responsibility. This issue relates as well to the loyalty of officers on CIVPOL to the US effort. It is commonly observed that officers on missions see themselves as contractors working for DynCorp as opposed to serving the US.<sup>15</sup>

This issue has led to other problems as well. Because officers see themselves as contractors or something akin to a police mercenary, there is a lack of commitment to a higher, more noble cause and this had led to acts of indiscipline. Most notably, DynCorp and US CIVPOL was seriously damaged by the allegations of human trafficking and forced prostitution against some of its employees in Bosnia. Other problems plague the work force as well. Questions of incompetence and lack of physical fitness continually swirl about DynCorp employees on police operations. Recognizing that in contingency operations, medical care may not be readily available or scarce resources must be applied where most needed, the deploying force must be in satisfactory physical condition. Additionally, CIVPOL officers may have to take on the role of actual policing, exercising executive authority to make arrests. This type work is very physically demanding. DynCorp has shown little recognition of these issues and this is illustrated with the fact that in one instance an officer deployed on a mission was found have a pacemaker.<sup>16</sup>

DynCorp cannot be faulted for all of the problems though. DynCorp is much in a position where it must take what it can get, as police officers are in high demand in the US. Police departments nation-wide have difficulty meeting recruitment goals and DynCorp must recruit from the 18,000 different state and local law enforcement agencies in the US. As a result, Chiefs of Police have little desire to let officers go on international missions. The more fortunate officers are allowed to take leaves of absence while many are forced to resign their position.



This forces DynCorp to take in less qualified officers and more retired officers whose state of fitness may be in greater question.<sup>17</sup>

Recognizing that officers come from a broad range of agencies, it is logical to expect an extensive training program is in place to prepare them for deployment to a chaotic environment and to attempt to achieve some level of standardization. This however is not the case. Officers deploying under DynCorp receive less than two weeks training.<sup>18</sup> Other problems are created by bringing a force together rapidly and inserting it immediately in to an operation. The organization, in effect, deploys as individuals. There is no unit cohesiveness, no full recognition of strengths and weaknesses and there is no recognized chain of command or rank structure. A thirty year senior officer with the Los Angeles Police Department who just recently retired carries no immediate recognitions of seniority over a patrol officer with five years experience with a rural sheriff's office. All of this is left to be sorted out on the ground while dealing with the lawless situation in a foreign country.

DynCorp is also responsible for equipping and sustaining the force. Problems abound in this area as well. Officers deploy with only the basic police necessities at the individual level. Most problematic is vehicle and communications equipment support.<sup>19</sup> Hence, logistics is described as the "Achilles heel" of CIVPOL missions.<sup>20</sup> With the numerous problems and inefficiencies related to CIVPOL, it is clear to see why the US turns to its military when it must employ an entity to fill the security gap after the shooting stops.

The US military has capabilities unmatched in the world. It can deploy large numbers of trained forces, with highly lethal weapons systems, with a very effective command and control system and robust logistical system to provide support. For every weakness of the US CIVPOL

program, the US military offers strength. Conversely, the weakness of the military is the strength of CIVPOL.

A widely recognized expert in international affairs, Francis Fukuyama, states “combat troops are notoriously unprepared to deal with civil disturbances and police functions, and often make things worse through heavy-handed use of force.”<sup>21</sup> A full book could be written on this topic with countless examples of mistakes and hundreds of quotes from military leaders asserting the inappropriateness of using military forces, but the point can be supported with only a few examples. Most all of the reasoning related to the military’s inability to effectively deal with police type activities is attributed to a lack of training, but it is far more than what training can provide.

The lack of ability really lies in the culture and thought processes of military leaders. Law enforcement executives have strong educational backgrounds in criminal justice with many leaders of agencies having an undergraduate degree in criminal justice and a significant number have graduate degrees in the discipline. Their background which all leads to development of another culture and way of thinking includes training at professional law enforcement academies. Most military officers would tend to disregard this training, thinking it is low level tactical type training being taught by a police sergeant and covering such topics as the application of handcuffs. Nothing could be further from the truth though. Many academies have instructors with masters and doctorates and they instruct on areas such as behavioral science, crowd mentality, and concepts for employment of effective community policing.

Two statements made by DoD officials and two observations about the military in its preparation and in its conduct of operations in Iraq are insightful into this culture of the military. These statements and actions must also be put in context recognizing that the US military has

been involved in operations in Haiti, Somalia, Bosnia, Kosovo, and East Timor, along with others over the past fifteen years, where it would be expected that mindsets may have changed. The first statement for use as an example occurred following the fall of Baghdad to US forces in April 2003. BG Vince Brooks, US Central Command Assistant Operations Officer and de facto Command spokesperson, was questioned about the rampant looting and lawlessness. He responded by saying that it was an understandable “reaction against oppression,” and went on to say “The Iraqi people have got to make some decisions for themselves as to what sorts of behavior will be acceptable...At no point do we see really becoming a police force.”<sup>22</sup> The second example was in a response given by Secretary Rumsfeld in response to a similar line of questioning: “Stuff happens...and it’s untidy. And freedom’s untidy. And free people are free to make mistakes and commit crimes and do bad things. They’re also free to live their lives and do wonderful things. And that’s what’s going to happen here.”<sup>23</sup> An example of an action or actually in this instance lack of action, was noted by the Center for Strategic and International Studies in Washington, DC following an assessment of US military forces just prior to the commencement of offensive operations in Operation Iraqi Freedom. The Center stated in a report that “there are no signs of US forces being trained to handle post-conflict civil security needs.”<sup>24</sup> The second action of note occurred in Fallujah, where the US Marines have taken two opposite positions in dealing with the citizens of the city. Since the population in Fallujah was hostile to US forces, the Marines withdrew and allowed the Iraqi militia to control the town. When violence erupted months later in April of 2004, the response was a pure military operation with apparent liberal rules of engagement. Following several days of increased violence, the Marines withdrew, calling for a cease-fire to negotiate a settlement. To most all US military

officers, none of the above would seem inappropriate, but a professional law enforcement officer would take exception to each statement or action.

Very briefly and for the sole purpose of showing distinctions in culture and mindset of the military and law enforcement, the following observations are made. In regard to BG Brooks' comments, a professional law enforcement officer would have noted that in any environment, where there is a vacuum of authority there will be lawlessness and lawlessness breeds lawlessness. A major theory in law enforcement and crime prevention is known as the broken windows theory.<sup>25</sup> Succinctly as possible, the theory is based on the the concept that when it is demonstrated that "no one cares," lawlessness sets in and grows. For example, an abandoned house in an urban setting may sit for months undisturbed and the grass begins to grow in the front yard. Soon a singular rock will be tossed through a window; the next day another; graffiti appears the following week. Recognizing that no one seems to care, a group of juvenile's break-in and have a party. Soon drugs are sold from the house and prostitution moves in as well. As it is seen that the police don't seem to notice or care, a new standard begins developing in what was before an orderly neighborhood. Vehilce larcenies start to occur; it goes on and on until the whole neighborhood has become a crime ridden area. Those outside of law enforcement would think this is an over exaggeration, but this theory is exactly what Mayor Rudolph Giuliani applied as the underlying concept in his extremely successful efforts to reduce crime in New York City. The question for the populace and for the police is where is the line drawn? If breaking in to a storefront window is tolerated, then how about a bank? If one can strong arm a purse away from a woman without fear of arrest, then what prevents the same individual from committing rape?

Certainly, one can contend that Secretary Rumsfeld did not intend anything negative in his comments; he was trying to show the grandness of freedom. But once again, the mindset is different. One would never hear the Chief of Police of any American city say, people are “free to commit crime.” No quite the opposite, the thought would never even cross a policeman’s mind. That is the *raison d’etre* of police. People are not free to commit crimes, people commit crimes in all societies, but freedom does not imply the right to do wrong. Again, the point is a difference in mindset and culture. Though police officers must exercise discretion as part of prioritizing work load, crime is not accepted as a state of natural being.

In looking at post-conflict preparations, it may not be appropriate to fault commanders for not preparing for the post conflict when the challenge before them is monumental and could well mean the loss of hundreds perhaps thousands of lives. If the *raison d’etre* of the military is as former US Central Command Commander, GEN Anthony Zinni, said to “break things and kill people,” then one must rhetorically ask why take time away from doing what is your reason for existence. In examining the actions of the Marines in Fallujah, it could seem very logical. But just as in Baghdad, the authority of the US forces had to be asserted up front and strong at the earliest opportunity. Military officers can relate to a similar line of thought regarding discipline in units. Young officers taking command for the first time are advised by the old, wiser, senior officers in regard to establishing discipline and a command environment to start first being hard and firm and then back off, that it is quite impossible to do the reverse as people get confused. Police know that allowing something to fester, to grow, will only make the situation worse and will have to be dealt with eventually. The other difference with the attitude in Fallujah is that the Marines have dealt with the situation in the extremes. On the one hand, it was avoidance and on the other hand, when things got out of control it was with deadly force. A policeman knows he

is not in control of a city block if he cannot walk down the street and stop people from misconduct by using verbal commands alone. He may well have had to use force in varying degrees to get there, but believing that he has control when he must use deadly force as his only means, means he truly does not have control or authority.

In defense of the US military, the institution recognizes it is not appropriate for the mission and fights against it continuously. “No more Task Force Smith” became Army Chief of Staff Gordon Sullivan’s mantra while the military was drawing down and looking for its peace dividend during the 1990’s.<sup>26</sup> General Sullivan saw that the US Army could not go back to the days when it was focused on constabulary duties and not its prime mission of “fighting and winning the nation’s wars.”<sup>27</sup>

In summarizing US capabilities, we see that the US has: (1) a foreign police training assistance program that functions by exception to a 1974 law and is administered by a department that has no interest in foreign affairs (2) a CIVPOL program that has no statutory authority, is deemed an orphan in its organization to which it is subordinate, is ran by a contractor, has large difficulties in recruiting, offers little training for its officers, deploys officers on an ad hoc and individual basis among many other problems and challenges and (3) a military which is very resistant to the mission, and which is recognized by experts in the field of policing in stability operations and senior military leaders as inappropriate for use in these type missions. General Wesley Clark (retired) said in his book *Waging War* that “Most militaries are simply not capable of performing such functions effectively and should not be the primary element responsible for them.”<sup>28</sup> With these weaknesses in its capabilities, it is appropriate to determine if there are any real strategic implications to the world’s only superpower.

## Strategic Implications of US Capabilities to Support Policing Operations

Ralph Peters sets the stage well for determining strategic implications of US capabilities with the following statement:

*We live in an age of 'heavy peace.' ...There will be other Kosovos; and; whether for strategic or humanitarian reasons—or just muddled impulses—we will not be able to resist them all...We cannot enter upon such commitments under the assumption that they will be temporary and brief... We must stop pretending those challenges will disappear—that 'something will turn up'—and prepare to meet them.<sup>29</sup>*

One implication of the statement by Peters is that the US does not truly have a full spectrum of capabilities, and because it will most certainly stay engaged in nation-building in the foreseeable future, it defaults to its military.<sup>30</sup> This has been the case in the past and in the absence of some significant action it will be the future. The US military will have to begin to prepare for these types of missions by either creating specialized units or by training all of its forces for these type scenarios which in fact it has begun to do at the Joint Readiness Training Center in Ft Polk, Louisiana. This action is of course what the US military has so strongly resisted. MG William Nash, Task Force Eagle Commander in Bosnia and United Nations Interim Administration Mission in Kosovo Regional Administrator, captures the essence of how senior military leaders feel about taking on other roles:

*In their heart of hearts, they feel very strong that they don't want to be peacekeepers, and who can blame them, because war fighting is what they do, and we need to be very careful before we have them not doing that...Armies see themselves when they get up in the morning as war fighters. When you get the Army doing lots of other things, you have a bad Army.<sup>31</sup>*

Another option that the US has tried with a very limited degree of success is to have other countries provide their constabulary forces to stability type operations. Secretaries of Defense and State are both on record for having attempted to get European countries to greatly increase

their contribution of constabulary force to operations because the US simply does not have the capability.<sup>32</sup>

The problem here though is that the:

*lack of American security in low-end security forces has roiled US relations with its European allies more generally...Dominique Moisi, a prominent French analyst said, "Europeans don't not want to become 'the cleaning lady to American intervention' Europeans maintain that the danger stemming from unstable countries is a principal national security threat."<sup>33</sup>*

If allies are growing weary of being the "cleaning lady," then it appears alternatives are growing slim for the US. American leaders also must contend with the fact that even if allies were not growing weary of providing its constabulary forces, it has a broader problem on its hands in the post- 9/11 environment where stated US policy is to go it alone if necessary.<sup>34</sup>

This situation is playing out presently in Iraq. While the Italian Carabinieri are present in Iraq and have suffered heavy losses, no other similar force is there. The two other most prominent constabulary forces are in France and Spain. While Spain contributed troops to the US led coalition, its newly elected government withdrew Spain's forces shortly after coming to power. Europeans, it is quite clear, are growing "increasingly concerned by the perception that the United States seems to think it can engage in conventional battles alone and the leave the Europeans to sort out the mess."<sup>35</sup> Losing Spain and with no real hope of gaining France's support, the US is left with a small number in the coalition and only one who can provide a constabulary. As President Bush has stated frequently, the US will act unilaterally if it is in its best interest and if that it the case then the US must possess the full spectrum of force capabilities.

Without question, US officials recognize the state of the world as described by Peters. Its options grow slim, however, in how to respond. It can choose to risk failure by continuing to



go down the current path, and weaken its military might by burdening the force with an incompatible mission. It can rely on an ever growing reluctant group of allies to provide its constabulary forces. Or, it can create its own constabulary force. Recognizing that a constabulary force provides one step in an exit plan for its military, the US can show it is serious about being a world leader in the full spectrum of force development and that it is serious about concluding operations with a fully thought out exit strategy.

While it is an option to use the military in other roles, both National Security Advisor Condoleeza Rice and Secretary of State Colin Powell have suggested other options may be more appropriate and one of those includes creating some type of alternative force.<sup>36</sup> Additionally, within the Washington inner circle, there are a small number of senior advisors such as Robert Perito and Thomas Barnett who advocate the creation of a constabulary force. Perito bases his argument on required American efforts in weakened and failed states and cites, much as this paper, the inability of the current mechanisms to adequately meet the new requirements.<sup>37</sup> Barnett, who served for twenty months as the Assistant for Strategic Futures in the Office of Force Transformation, for the Secretary of Defense, recognizes “we’re facing a bifurcation of our military needs into two very different tasks. One is a ‘takedown’ force force which we saw at work...in Iraq. On the other side is a large constabulary force.”<sup>38</sup> He has indicated though, that the Pentagon has less than favorably received this concept.

The US government must reflect on its policy of acting preemptively and of engaging globally in the “arc of instability” by defending forward. The concept of defending forward is a Pentagon recognition that terrorist networks tend to thrive in countries fraught with chaos and lawlessness.<sup>394041</sup>

The aim of these operations should be kept in mind when considering the need for a constabulary force. The aim is really more than winning the war, the aim is winning the peace and establishing stable governments that respect human rights. A Marine Corps general serving as Joint Task Force Horn of Africa Commander recognizes that aim: “you have the stewardship to do more than just kick butt...That’s not the long term solution. The long-term solution is nation-building.”<sup>42</sup> The problem it seems within DoD is that the dots have not all been connected. Barnett points out that the military can do five or six Iraq “takedowns” a year but that “we do not have the military needed to do an occupation.”<sup>43</sup>

a constabulary force be formed to carry out these operations to implement the national security strategy but he also recommend an entire cabinet level department be created to provide the nation a needed capability in nation building, which would include a constabulary force.<sup>45</sup> While this paper will propose a different model, it is certainly one of the viable options to manage at the strategic level the needed constabulary force. To that end, a model for a US constabulary force is offered.

### **A Proposed Force Model**

This proposed force model seeks to take advantage of strengths from various military, civilian, and police agencies and programs. It aligns the created organization under federal departments that would have the greatest interest in the organization's success at a given time and creates on-going relationships with other departments that would enable success in domestic and expeditionary operations. Most importantly, this force enhances the ability of the United States to carry out President Bush's security strategy both domestically and internationally.

### ***Organizing the Force***

The constabulary force would be comprised of an active component (AC) and a reserve component (RC). While the numbers of personnel in each component could vary, this model provides for four RC personnel to complement each AC member. The AC comprised of 5,000 members would be located throughout the US and organized in military fashion in platoons, companies and battalions. The RC, comprised of 20,000 members, would be aligned with one RC company to each AC platoon. The AC platoon would be organized in such a manner to enable it to deploy as a fully operational entity by itself or when augmented by the RC to serve

as the unit's cadre and the base upon which to expand the unit. An expanded AC company with its full complement of RC personnel would expand to battalion size (four line companies) with an additional platoon added to each company (total of five). Normally, a battalion would consist of 500 individuals with its four line companies and a headquarters detachment of approximately eighty individuals. Each company would have a five man headquarters sections and four line platoons of twenty-five members each. Platoons would consist of two squads, with two, five man teams in each. At the tactical level the five man team can deploy independently and can conduct operations such as checkpoints for an extended period.

The headquarters detachment at the battalion level would be organized in much the same manner as a US Army MP battalion detachment with sections for personnel, intelligence, operations, logistics, communications, maintenance and limited medical support. The difference in the Battalion Headquarters Detachment is that it has three additional sections. The first is a very small public affairs or information operations section, and the second and third sections are why ECJA is so named as opposed to being called Expeditionary Police or Constabulary Agency. The second additional section would be comprised of approximately ten lawyers and judges and the third section would consist of roughly twenty correctional specialists (jailers).

The ten AC battalions that would come from the force of 5,000 would be positioned with one battalion located in each Federal Emergency Management Agency (FEMA) Region within the US. The logic for alignment with FEMA regions will become more evident with further explanation of command and control and roles of the force. FEMA, which is subordinate to the Department of Homeland Security (DHS), has divided the US in to ten regions.<sup>46</sup> Following 9/11, when governmental agencies were seeking to increase coordination and synchronize efforts, the numerous ways which the US had been subdivided by agencies became a point that

highlighted how little various governmental agencies sought means to enhance interagency relationships. The FEMA model was recognized by many as the method to which others should migrate.<sup>47</sup>

### ***Justification of Force Organization***

The concept for creating a standing force or AC is based on the need for both immediate and extended capabilities in operations. First, US troops deployed in Kosovo found immediately upon their arrival the need to make arrests. Two experts in the field of civilian police (CIVPOL) in peace operations suggest that “the current doctrine for peace operations dictating a sequential, linear transition from intervention and peace enforcement through a period of stabilization to a final phase of institution-building is incorrect. Building the rule-of-law institutions must begin as soon as the fighting stops.”<sup>48</sup> The concept is broadly supported as was evidenced by agreement of numerous experts who gathered in a symposium hosted by the United States Institute of Peace. Second, the symposium also supported the concept of creating a reserve force with an eye to extended operations.<sup>49</sup> The concept of a reserve force parallels the logic of reserve military forces. There will be instances where operations must be sustained for extended periods, perhaps a decade or more or instances where a surge capacity is needed far beyond the expected normal usage rate of CIVPOL, as is the case in Iraq presently.

Determining the size of the constabulary force and the proper mix between AC and RC personnel is in itself worthy of extended study, but the recommended numbers are a reflection of past US deployments of CIVPOL and of actions taken by other entities in regard to establishing a constabulary force. In 2001, the US deployed 850 CIVPOL officers to various locations throughout the world and by 2003 the number had dropped to 700.<sup>50</sup> However, in Iraq, an ICITAP assessment team determined that 6,600 CIVPOL officers were required just to train the

new Iraqi police force. The US State Department contracted with DynCorp to provide 1,000 American police officers and fruitlessly pursued a path to fill the remaining positions with other international officers.<sup>51</sup> In June of 2000 and based on NATO's experience in the former Yugoslavia the European Union (EU) decided to create a standing constabulary force of 5,000 and called it the European Security and Intelligence Force.<sup>52</sup> With this information as background, some very rough deductions can be made.

Using a conservative view that for every person or unit deployed, three more are required to sustain continued support over extended periods, a model is developed suggesting for every long term requirement, four units or individuals are needed. This model uses the logic that rest and recovery sometimes, euphemistically referred to as "decompression," requires twice the period of the deployed operation and another equal period is required for train up to deploy again. The average annual US deployment of CIVPOL over the past five years has been 920 personnel. Using the model of four persons for each requirement, 3680 becomes the number of the size of the constabulary force, but this does not factor in a requirement for the constabulary force to take over policing operations from the military on a grander scale. Therefore, the size should minimally be extended to 5,000 and the RC size can easily be supported by the logic that should the full AC force be required to deploy such as in a circumstance just like Iraq, the four to one model would suggest that the size of the RC is appropriate in the range of 15,000 to 20,000.

Iraq is certainly a different circumstance as it can be argued that even a constabulary force of 25,000 is inadequate. Using a standard planning formula of one officer per 500 citizens, the 25,000 would only meet half the requirement of Iraq with a population of 25 million. Many additional factors have to be considered in determining the size of the force for an operation like Iraq beyond the scope of this paper and for determining the size of the force in general. To

discuss the latter point further, the size of the force must be robust enough so that neither the AC nor RC deploy so routinely as to fray the fabric of the force by wearing out the force members. Contrarily, the force cannot be so large as to overburden the federal budget with excessive or wasted capacity.

In regard to the proposal that headquarters detachment of the battalion have lawyers, judges and corrections specialist, prominent leaders such as Lakhdar Brahimi and General Wesley Clark as well as many others with expertise in Peace Operations, have recognized the need in supporting the efforts of the police in establishing the rule of law. The Brahimi report recommended that the United Nations establish “rule of law teams” that include judicial, penal and human rights experts.<sup>53</sup> Bernard Kouchner, the UN’s senior official in Kosovo, said the “lesson of Kosovo” was that “peacekeeping missions need to arrive with a law-and-order kit made up of trained police, judges, and prosecutors and a set of draconian security laws. This is the only way to stop criminal behavior from flourishing in a postwar vacuum of authority.”<sup>54</sup> The sections in each battalion headquarters would provide the law-and-order kit the Kouchner describes.

Kouchner also touches on the point that a set of laws are required in countries that have failed governments. While this point is an important issue it goes beyond the scope of this paper, but it is important to note at this point that one of the responsibilities of the legal teams in each of the battalions would be to develop an interim criminal code that would be appropriate for specific countries or regions. This provision would also address a Brahimi Report recommendation to create a “stand-by criminal code and criminal procedures” for use in contingency operations. The report further noted that in transitional missions, the police “need to know what law they are to enforce and need to be trained in that law and its procedures.”<sup>55</sup> In developing a stand-by

criminal code for particular countries and regions, the legal staff would look to other models in the region that recognize the rule of law and respects human rights.

### ***Manning the Force***

The AC would be formed by personnel who and in order of preference are (1) both a certified law enforcement officer and have three years prior military experience, or served three years as a military policeman (2) have one of the two previous qualifications and fluently speak a foreign language (3) demonstrate an aptitude for para-military/law enforcement work and fluently speak a foreign language (4) demonstrate an aptitude for para-military/law enforcement work.

The RC would be formed primarily by current serving certified law enforcement officers from state, local and federal agencies. When failing to meet recruitment goals, the RC would be authorized to accept retired law enforcement officers or former certified law enforcement officers that can demonstrate an adequate level of physical fitness and competence in law enforcement skills. Civilian law enforcement officers that serve in US Army National Guard or Army Reserve units, other than Military Police (MP), would be encouraged by DoD to transfer to the constabulary force with all pay and accrued benefits. Should that fail, bonus or incentive money could be provided to encourage transfers.

In an effort to have the RC element of the constabulary force constituted primarily of serving law enforcement officers, the federal government would establish a cost sharing program with state and local law enforcement agencies similar to the US DOJ Community Oriented Policing Services (COPS) program.<sup>56</sup> Law enforcement executives are currently reluctant to support international peacekeeping operations and as in the words of one Chief of Police it is “a costly, no-win endeavor.”<sup>57</sup> Under this program the federal government would initially fund the annual



salary of each officer that a department/agency sponsors or allows to join the RC constabulary force. Over a period of years the contribution of the federal government to the officer's salary would decrease to a point where only a nominal percent was paid by the federal government. The federal government would pay the officers salary and any additional compensation when training with or deployed with the constabulary force. This program would provide an incentive to law enforcement executives to support the constabulary force. Additionally, special skills training that RC officers would receive as part of the constabulary force such as language training or SWAT team training would provide the state/local agency with a better trained officer at no expense to the department.

A goal of the RC program would be to spread the agencies from which it drew its officers from to the greatest extent possible. There are approximately 800,000 sworn, full-time law enforcement officers in the US that come from just under 18,000 agencies. Roughly seventy-five percent of the officers are in county or local police departments.<sup>58</sup> By drawing from as broad a base as possible, the impact on local departments would be minimized when the RC was activated for a domestic or expeditionary force operation thus alleviating one of the major problems associated with activating National Guard (NG) units. Often when the NG is activated in a state to support a domestic emergency, it pulls members away from other local and state agencies that are just as critical, such as police officers, state troopers and fire fighters.

### ***Force Ownership and Command & Control***

For the purposes of this essay, the created constabulary force will be referred to as the Homeland Security Enforcement Agency (HSEA). DHS will be the responsible entity for domestic oversight of HSEA. A commissioner would direct HSEA and would report to the

Secretary of DHS. Under DHS, the agency would be used to augment other DHS agencies in times of elevated alert levels, for national special security events (NSSE) or could be used to support local or state agencies as an emergency augmentation force used for riot control; Chemical, Biological, Nuclear, High Explosive response or to provide assistance in natural disasters. HSEA would also provide support to DHS agencies on a scheduled and routine basis as a means of maintaining, developing, and enhancing law enforcement skills.

When situations develop that would warrant the deployment of HSEA, either the Secretary of State or Secretary of Defense, in consultation with the National Security Council, would request authority to deploy the force from the President. Upon approval of authorization to deploy, the deploying elements transfer under the control of the Secretary of State and deploy as the Expeditionary Criminal Justice Agency (ECJA).

### ***Justification of Force Ownership and Command & Control***

Transfer of responsibility and authority over HSEA/ECJA from domestic operations to expeditionary operations may appear cumbersome and unnecessary, but it is based on analysis of other national constabulary forces. Both the Italian Carabinieri and the Spanish Guardia Civil have different reporting lines when employed in domestic operations and when employed in an expeditionary manner.<sup>59</sup> Both organizations report to their Ministers of Interior when within their own country and when deployed to their Ministers of Defense. In the US framework, this approach is also appropriate as no singular department would have a vested interest or authority under law to oversee an agency such as this proposed model. The difficult issue is the determination of which two departments will exercise oversight and responsibility for the agency.

The implications of the placement of the organization in the executive branch structure are far reaching. Where the organization is placed would determine in large part the role HSEA would take domestically. This would impact on the greatest barrier to the creation of a constabulary force: political resistance to the creation of a force seen as a national police force. The options for the cabinet level department to exercise authority over HSEA are the DOJ and DHS. In determining the placement between the two departments, two essential criteria come to the fore and both play in large part to public perception.

First, by placement the organization cannot be viewed as expanding the policing responsibility of the federal government. It must be seen as a measure to increase current capabilities. The reluctance of the American culture to a constabulary rests in the belief that a constabulary is a national police force with broad policing powers. Just as the US Constitution establishes checks and balances and spreads power among the branches of government, so goes the American psyche towards policing. Additionally, the Constitution attempts to leave as much power in the hands of the states as possible. The old saying that “the government closest to the people is the best government” represents the strong conservative view in the US. Carry this logic through and other nations can begin to understand why the US has roughly 18,000 different police agencies.

Second, in the post- 9/11 environment, the American people are quite willing to commit more tax dollars and establish new programs to win the global war on terrorism. The difference that exists between the two political parties on how to fight terrorism lies in their view of the matter as being a police and intelligence function or a broader issue inclusive of police and intelligence, but also including the use of the military in proactive action. Therefore,

establishing a piece of criteria that the placement should be driven by where the organization can have the greatest impact on terrorism is essential in winning the American public's acceptance.

With these two pieces of criteria, the answer to the placement decision becomes almost self-evident. To address the first element of the criterion, it is necessary to understand clearly what role HSEA could best fill or complement in federal police work. To avoid the fatal view in the public that HSEA is not increasing federal policing roles, it should not be tasked with a new responsibility, but should only be used to complement or enforce the work of current federal agencies.

In determining who best to support, it should be understood that HSEA is not comprised of highly skilled investigators, at least in the AC. The RC, comprised of full time police officers, would provide greater capability in that area of expertise. The AC of HSEA basically provides officers with "street cop" type skills or in very plain language, police muscle. Only one organization in DOJ really has these type skills and that is the US Marshal Service (USMS). All other law enforcement agencies in DOJ are investigative agencies. Based on skill sets and potential contributions, it is a viable option to place HSEA under the USMS.

When the federal government needs police muscle, the USMS is the agency that is tasked. During the civil rights and war demonstrations in the 1960's, standing next to the federally activated National Guardsmen were men in white Army helmets. These were US Deputy Marshals. Two difficulties arise in choosing this option however. First, by placing HSEA under the USMS it would lower HSEA in status and limit access to higher levels of government and secondly, this would violate criterion number two: linkage to counterterrorism.

DHS law enforcement organizations have skill sets that are much closer linked to those contained in HSEA, for example Border Patrol (USBP), Customs Service (USCS) and the

Federal Protective Service (FPS).<sup>60</sup> Because there is no singular agency in DHS that HSEA would provide support to, it would remain directly under the Secretary. Even the United States Secret Service (USSS) could draw support from HSEA and not only in the securing of the persons the Service is charged with protecting by law, but also in assisting in security at National Special Security Events (NSSEs) for which the USSS has responsibility. Examples of NSSEs include the Super Bowl and G-8 Summits.

In addressing criterion number two, the answer is quite clear. DHS was created to be the unifying core to organize America in efforts to secure the homeland from terrorists attacks. Its mission statement reflects its focus on defending against terrorism: We will lead the the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation.”<sup>61</sup> While neither the Federal Bureau of Investigation (FBI) nor the Central Intelligence Agency (CIA) are under DHS, (both of which are major participants in counterterrorism efforts), DHS is the department that primarily acts on terrorist threats. It is the Secretary of DHS that sets the national threat level and who is the spokesperson the White House puts before the media when a terrorist type incident occurs or is threatened.

Based on the criteria, it is clear that DHS should be the responsible department for the domestic operations of HSEA. Determining cabinet level responsibility for the expeditionary operations of ECJA also requires establishment of criteria. Another statement by MG Nash, may be insightful in establishing such criteria:

*First, until the civilian components of peace operations attain the same relative competency and appropriate resources as the military component, the peacebuilding effort and its political objectives will never be achieved. Second, too much effort has been spent talking about the military component of peace operations and not enough directed at understanding the complex and intertwined political, economic, social and security dimensions of the societies where*

*intervention is taking place. Third, establishing law and order and combating the organized crime that flourishes in the security vacuum of peace operations cannot be done with disorganized international police. International community steps on a slippery slope when it equates security with military capacity in peace operation, because security is much broader and more complex concept. Restoring civil order as well as normalizing the political, economic, and social orders in a post conflict environment are far beyond the scope of the military component.*<sup>62</sup>

With MG Nash's insight, establishing criteria that separates ECJA from the military component would seem essential. This would seem to automatically eliminate DoD but that is not the case. It would eliminate the possibility of ECJA being subordinate to the uniformed military forces.<sup>63</sup> Support for this criterion comes broadly as well and an entire essay could be devoted to other reasons for establishing it. But perhaps the most authoritative support comes from the UN Chartered Brahimi Report which recommended that Department of Peacekeeping Operations be reorganized by removing CIVPOL from the military chain of command, raising it to division status and, upgrading the senior police advisor to the same grade as the senior military advisor.<sup>64</sup>

The second criterion is far more subjective but establishes that ECJA should be placed under the department that has the greatest vested interest and responsibility for establishing success in nation building.

Much discussion could take place in regard to the pros and cons of placing ECJA under DoD. However, one example alone should eliminate DoD from consideration. In an environment that is not the major focus of DoD, take for example at the time of this writing, Haiti. If ECJA were deployed, which it should be in numbers larger than military, DoD in the Pentagon would view it as a sideshow and would quickly relegate it to the control of the senior military officer in theater, who most probably would further delegate control. This would, in fact, then violate the first criteria and all of the logic that goes in forming it. To reinforce the problem with this action, a

short excerpt from the book *Where is the Lone Ranger When We Need Him*, by Robert Perito, an expert in CIVPOL in peacekeeping operations, is useful:

*Traditionally, military officers have looked upon police related duties as “undignified.” According to Morris Janowitz, “The professional soldiers resists identifying himself with the ‘police’ and the military profession has struggled to distinguish itself from the international police....The military tends to think of police activities as less prestigious and less honorable tasks, and within the military establishment, the military police have had relatively low status.”<sup>65</sup>*

The senior ECJA official on the ground in Haiti would quickly find himself subordinate to an Army Colonel and his expert advice would be if not consciously, subconsciously written off.<sup>66</sup>

In assessing the second criterion, which is a bit more subjective, one really need only look at the logic expressed by Francis Fukuyama:

*The reconstruction effort must remain under clear civilian control as it moves sustaining institutions that will ultimately allow the US a graceful exit. Decisions about how to rapidly turn over authority to local actors, what the sequence for political reform should be, and when and how to reduce aid levels and presence in a country cannot be left to the Department of Defense, which will always be in favor of a quick exit....Previous nation building (prior to Iraq) had always had two chains of command, one dealing with military security and the other-through the local ambassador and the State Department-with civil affairs. In Rumsfeld’s view, this split in authority tied down US forces, because the civilian chain of command could never agree on an exit strategy and was constantly calling on the military to do things for which it was not prepared, such as police work.”<sup>67</sup>*

Secretary Rumsfeld’s view may signal that DoD has no interest in overseeing a constabulary force. But likewise, CIVPOL in its current configuration under the State Department is described as an orphan.<sup>68</sup> CIVPOL and the entire concept of policing in stability operations has no real owner. If Fukuyama’s words are not convincing that the State Department has the greatest interest, then perhaps the succinct words of former Supreme Allied Commander of Europe, General George Joulwan (retired) when speaking of complex humanitarian emergencies are convincing: “success is not measured solely by military success, but primarily by civilian

success.”<sup>69</sup> General Joulwan’s words not only suggest who best should oversee the constabulary force but also support the concept of the constabulary force itself. At this point it should be clear, that many military commanders who have commanded stability operations all seem at least conceptually to be in favor of a constabulary type force.

Placing an armed force under the State Department may seem inappropriate, but it should not be viewed as a military force but rather as a criminal justice agency that has the capacity to use lethal force should it be necessary. Just as CIVPOL works under the State Department now, sometimes armed carrying out executive authority, so too can ECJA.

### ***Internal C2 and Lateral Coordination***

Internally and subordinate to the Commissioner of HSEA would be four operationally focused Regional Directors/Brigade Commanders, and four deputy commissioners (DC). A deputy commissioner would exercise staff coordination and action in the areas of force development (FD); training and readiness (T&R); domestic operations (DO) and foreign/expeditionary operations (FEO). So as to ensure that neither domestic operations nor expeditionary operations gained supremacy in the organization and to enhance balanced development, the regional directors and commissioners would transfer duty positions on a periodic basis.

Regional Directors/Brigade Commanders would be responsible for two to three AC battalions (1000-1500 personnel) and the accompanying RC units (3200-5200 personnel). The regional directors so titled when operating domestically, would deploy as brigade commanders as part of ECJA when two or more battalions were deployed to a theater of operation. The DCFD would be responsible for doctrine, organizational structures, equipment development and procurement,



logistics planning and facilities. DCT&R would coordinate training activities and oversee unit readiness. His activities would require significant coordination with the DCFD, DCDO and DCFEO. The DCDO would be the primary staff coordinator with DHS and its subordinate agencies, as well as with state and local officials. The DCFEO would coordinate with State Department, DoD and the United Nations Department of Peacekeeping Operations.

The DCFEO would coordinate directly with brigade and battalion Commanders for contingency planning and deployment operations. To further enhance contingency planning and preparedness, each brigade and battalion would be aligned to a regional combatant command (RCC) (figure 1.) While the most recent Unified Command Plan of DoD establishes nine combatant commands, only five have regional responsibility.<sup>70</sup>

**FIGURE 1** -----

<b>FEMA Region/HSEA Bn</b>	<b>Assigned Bde</b>	<b>RCC</b>
I/1	1 <sup>st</sup>	Reserve-EUCOM*
II/2	1 <sup>st</sup>	EUCOM
III/3	1 <sup>st</sup>	EUCOM
IV/4	2 <sup>nd</sup>	CENTCOM
V/5	2 <sup>nd</sup>	CENTCOM
VI/6	3 <sup>rd</sup>	SOUTHCOM
VII/7	2 <sup>nd</sup>	Reserve-CENTCOM*
VIII /8	3 <sup>rd</sup>	NORTHCOM
		Reserve- PACOM**
IX/9	4 <sup>th</sup> <sup>d</sup>	PACOM
X/10	4 <sup>th</sup> <sup>d</sup>	PACOM

\* Battalion with worldwide contingency responsibility but first in consideration to augment designated RCC when requirements surpass designated units.

\* Battalion and Brigade responsible for coordination with NORTHCOM and has worldwide contingency responsibility but first in consideration to augment PACOM when the 9<sup>th</sup> and 10<sup>th</sup> Battalions are deployed.

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The brigade and battalion commanders would also be given direct liaison authority with staffs of combatant commanders and embassies within their primary assigned area of operation. The brigades and battalions are in locations where either a RCC for whose area they are responsible is located or a subordinate element of the RCC is located. Battalions would be further designated

to have countries of responsibility which would in turn be further delegated as a principal area of focus to companies. The intent in delegating regions and countries to the lowest possible unit level is to not only assist in planning but even more importantly to focus training.

### ***Training the Force***

For a US constabulary force to achieve success in establishing the rule of law in weakened or failed states to the same degree that the US military has achieved in destroying enemy forces requires that the force receive extensive training both individually and collectively. The requirements on the force to be prepared for the various challenges that it would face, have influenced all aspects of the proposed model. As an example, double tapping the organization with both a domestic and expeditionary mission serves not only to make an efficient use of a needed resource but more importantly prepares the force for expeditionary operations.

Brigadier General Dave Foley, Commandant of the US Army MP School, said in regards to the MP Corps at the National Defense University conference entitled “Policing the New World Disorder: Peace Operations and the Public Security Function”:

*Our usefulness is predicated upon our capabilities that reflect how we have been trained, think, and operate...we apply force without threatening. We understand the consequences of inappropriate, individual, and small-unit actions upon mission success...We execute our functions under restrictive rules of engagement aided in this role by our training in interpersonal skills. These skills lend a human dimension to our activities. We also appreciate the supportive role that rules of interaction play in lessening the friction generated by differing ideologies, customs and beliefs.<sup>71</sup>*

BG Foley’s comments point out that more than training goes to shaping the success of a force, specifically noting how one thinks and operates. The interpersonal skills and the various other skills required to operate in the human dimension are not honed in a classroom or on a training range, but in day-to-day real life experiences while performing law enforcement duties. Going

through the thought process to escalate force does not come as naturally to one who has only had training on the use of force as it does to the law enforcement officer who routinely handles situations where he must quickly determine the appropriate use of force. The officer who has broken up numerous fights in a rowdy bar where no one is a friend is less likely to be rattled when an unruly crowd surrounds the officer on the streets of Baghdad. Any model that uses forces in deployed operations must have its officers using their training to gain practical experience.

The training program for the constabulary units would be based on a rotational cycle among the basic building blocks of the constabulary force-the four line companies in each AC battalion. With four companies, an annual training period would be broken in to four-three month periods.

For two periods (six months), units and individuals would be assigned to augment other DHS agencies (USSS, Transportation Security Agency, Customs Service, USBP, Immigration Service and Federal Protective Service) or be assigned to one of 66 Federal Bureau of Investigation sponsored Joint Terrorism Task Forces.<sup>72</sup> Individuals would also receive special individual training during this period such as language training or sniper training. One of the goals of the program would be for each officer to speak fluently in a foreign language which is prominent in their units designated area of focus. Another goal of the organization would be to develop expertise among members in specialized areas of law enforcement. In addition to sniper training, additional areas where lengthy specialized training is required includes: special weapons and tactics training; hostage negotiations; handling of working dogs or K-9, and crime scene processing. Both the language training and specialized skills development follows the model employed by US Army Special Forces.

The third period of training would focus initially on individual skills that are more military related (e.g. martial arts; use of weapons to include nonlethal weapons training; mine awareness; use of special equipment such as night vision devices and global positioning systems; geography, history, and culture of responsible geographic region; intelligence gathering; international and domestic law of geographic region; vehicle and communications equipment use and maintenance and law enforcement street survival skills). In later stages of the period, training would shift to more collective training and focus on topics such as crowd control from team to battalion level; patrolling; and conduct of raids. Aligned RC units would conduct two weeks of annual training with its sister AC unit during this period following a model employed by the US Army Reserve.

The fourth training period would be a continuation of the third period but in this period the unit would be prepared to be the first of the companies in its battalion to deploy. Additionally during this phase, plans for contingency operations would be reviewed, updated and coordinated with other governmental agencies. Deployment readiness exercises would be conducted and small elements would visit countries that would be in their area of responsibility.

Little law enforcement training is provided during the six months of training that is conducted within the unit as most of those skills would be reinforced during the six month period with other law enforcement agencies. Initial law enforcement training for those that join the force who are not certified local, state or federal law enforcement officers would be conducted at the Federal Law Enforcement Training Center which is also subordinate to the DHS.

This discussion on training, while very much at the tactical level, is provided primarily to create a greater understanding of the capabilities and uniqueness of the force. It is quite logical at this point to assert that with some slight modifications, it is quite possible that the US Army MP could carry out the functions being placed on ECJA. The MP Corps does in fact have the

capabilities required in ECJA, but the discussion above concerning why DoD is not appropriate to control ECJA, provides the good reasons why it is not appropriate for MP to carry out the function.<sup>73</sup>

### ***Equipping the Force***

This topic area is much like the area on training the force. The substance may well appear at the tactical level, but through its presentation it provides a greater understanding of the force; how it can be employed; where and when, and its significant capabilities in applying force along a continuum. How the unit is equipped also has strategic implications by showing the advantage of the force in its diverse capability to respond to different types of antagonist behavior, cost and in minimizing transportation requirements when compared to relatively heavy military units.

Generally, the force would be equipped with all the equipment of a large municipal police department and military equipment comparable to a US Army MP unit. The force would have equipment that provided lethal capabilities, but more importantly, the force would have a very robust complement of equipment that provided numerous nonlethal options. The full list of equipment is at Annex B. The equipment available to an ECJA team, its training, and capabilities make it ideally suited for dealing with situations facing the US military in Iraq presently.

Images of soldiers dealing with uncontrollable and angry crowds demonstrate how poorly the US force is prepared to deal with these type situations. TV images show a line of soldiers with M-16's at port arms or in the classic jab mode taught in bayonet training. In one recent image, a Marine had his weapon yanked from his hands and the immediate reaction of other Marines was to employ deadly force. A properly trained and equipped force can subdue angry individuals

with machetes without deadly force and can disperse a crowd of thousands without injury to either the force or the rioters. In the era of the “strategic corporal” and the CNN effect, the diverse capabilities of ECJA provides a strategic enabler to any stability operation.

The light and mobile force with its highly lethal capabilities would significantly reduce the costs associated with equipping, transporting and maintaining the force when compared to a mechanized, airmobile or armored unit. The ECJA unit would actually have slightly more combat lethality than a MP unit and it is often stated that one MP platoon has more firepower than an infantry company. At the other end of the spectrum, ECJA is a force that is trained to resolve situations with the least amount of force and has the training and equipment to effectively work along the full continuum of force, from verbal persuasion to 81 and 40 MM rounds on target. Another strategic consideration is the reduced amount of lift required to transport a fully wheeled vehicle equipped unit. This makes ECJA a rapidly deployable force that can be positioned to effectively bridge the gaps in security and time. As noted by two experts in the field of international studies, “Assistance to establish justice must...be timely in order to be effective.”<sup>74</sup>

### **Challenges to Implementation of the Proposed Constabulary Force Model**

Admittedly, there are three major challenges to the implementation of this proposed constabulary force of varying scope and intensity. The challenges of public perception regarding creating a national police force and compliance with the constitution, cost of creating the force and lack of a cabinet level officer to champion the creation of the force can be overcome.

This proposed force is not in contradiction to the US Constitution. In fact it can be argued that Article II of the Bill of Rights supports such a force, A well regulated militia, being

necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.” Legal prohibitions that largely extremist suggest precludes a constabulary force are as discussed above based on the issue of states rights.

To address the challenges in order of their ability to be overcome we start with public opinion. Public opinion would be attempted to be swayed by extremist who insist it is an ever growing federal government that continually seeks to encroach upon states rights. It is very much the Orwellian Big Brother mentality that must be overcome. The model as proposed can overcome these concerns. It does not expand policing powers of the federal government nor is an agency created to be an additional law enforcer with another set of eyes on the American public. This model can sway public opinion by being offered as an agency that can reinforce those that need help on the front lines in the war on terrorism both domestically (USBP, TSA, Customs) and in assisting DoD with the broader GWOT by helping stop terrorism and strengthening institutions in weakened or failed states.

The second issue is cost. Using some cost comparisons with the Canadian Forces, which has a budget of roughly CDN\$13 Billion and an effective trained force strength of 53,000, one can calculate that the cost of this proposed force would be in the rough order of US\$4.5 Billion and that is not considering the fact that four-fifths of the force is reserve and those cost will diminish significantly each year (this based on cost sharing with state and local police departments). While certainly US\$ 4.5 billion is no small amount of money, it is a relatively small sum when compared to DoD’s annual budget of roughly US\$380 Billion. Certainly Secretary Rumsfeld would be willing to transfer \$5 Billion to DHS and the State Department if he were told that a force for which he would not have to be responsible for, would provide a capability that would

help create an exit strategy for the military in various stability or nation-building operations around the world.

The challenge that will be the hardest to overcome, is that with the exception of a few within the White House itself, (President, Vice President, National Security Advisor and staff), no one else in the executive branch would have reason sufficient enough to champion this proposal. Not because it would not be good for their particular organization's interest, but because it cuts across too many departmental lines of responsibility. For example, in considering the Secretary of Defense as the champion of the model, the Secretary would certainly be reluctant in doing so because he would be suggesting a model that imposes work on two other departments and relieves him of a worry. Could the Secretary of State suggest that he be responsible for forces in the field, taking authority away from the Secretary of Defense and suggesting that DHS would create the force but that he would use them when he needed it? Consider the Secretary of DHS. He most certainly has areas where he would like to see an increase in budget and personnel already. It is doubtful he would put those issues he currently is championing aside or lower in priority and step forward to further a cause for a force that he would share with the Secretary of State. This of course recognizes that Secretaries must choose their issues wisely and limit those they do choose. One other factor contributes as to why no one would serve as champion for this proposal at least not for sure within a Republican Administration. The public opinion issue becomes a political factor. Those who would oppose a constabulary force would be those more of a conservative nature and anti-big government, so while it would make very good sense to have such a force, politics (both internal and external to the government) would stop the proposal cold.



While the three challenges to implementation were derived through independent thought, the United States Institute of Peace agrees in large with its position that any enhancement to US CIVPOL will be impeded by a lack of political and funding.<sup>75</sup>

## **Conclusion**

The end of the Cold War brought about change in the world with some very unexpected consequences. Regional and ethnic conflicts were stifled during the Cold War period, but now those restraints are gone. Weakened and failed states that often are at the root of conflicts have grown exponentially over the last fifteen years and the US has found itself involved in nation-building in a growing manner. 9/11 heightened the awareness of the linkage of failed/weakened states to the growth of terrorism.

The US expanded its involvement in failed states as part of its GWOT and with the regime change it sought in Iraq realized it has taken on a large task of nation-building in yet another foreign country. This trend is expected to last. An essential early element in each of these operations is the establishment of the rule of law and institution building, particularly those related to criminal justice. While the US has its DOJ ICITAP and its State Department administered CIVPOL program, it relies heavily on its military to carry out rule of law establishment and institution building. The military has resisted taking on this role and beyond its lack of training preparation for the tasks involved, it is ill-suited for the role because of the culture of the military. The US military's view is that the military should be used to fight and win wars. Anything that distracts from that role is an inappropriate assignment of tasks. Most political leaders and the American public support this thought as well.

This leaves the US in the position where it inefficiently and ineffectively deals with establishing the rule of law and criminal justice institutions. One alternative the US has relied upon is to seek the support of nation states with constabulary forces to assist in this capacity. While successful on various operations, Europeans are growing weary of being the “cleaning lady.” Additionally, as the US has adopted a strategy of preemption in a more liberal sense, it runs the risk of alienating other s or at least in not building large coalitions of countries to support preemptive action. This has been true in Iraq where several countriess with constabulary forces have resisted joining the coalition or have signaled intentions to withdraw.

The US now has several options at hand to address the need to more efficiently and effectively establish the rule of law and build institutions in weakened or failed states. Building a constabulary force is a solution that is growing acceptance among experts in the field. A model that employs the force in the war on terrorism domestically and supports the State Department on expeditionary missions is a viable option. The proposed model constabulary force offers many advantages in its employment but perhaps the greatest advantage is that it allows the US to assume a leadership role in an area where it has clearly been lacking and that it provides an entity that is essential in an exit strategy for the US military.

While the concept of a constabulary force could potentially be sold to the American public, it has a very significant challenge that must be overcome. Because a constabulary force cuts across many departments in the executive branch of the federal government, it has no singular self-identifying champion for its implementation. But, because it is a concept that will greatly benefit the US in its war on terrorism, in securing the homeland, and in implementing the President’s strategy of acting preemptively and unilaterally if necessary, this greatest of all challenges must be overcome. Experts in the field, such as Robert Perito and Thomas Barnett, have started the

dialogue at the highest levels of government and the NSC advisor, Secretary of State and Secretary of Defense have recognized the need for a new force. The dialogue must increase, for it is in the best interest of the nation, and the National Security Council must seize the concept and champion its implementation.

Major events impacting on the national security environment are transpiring rapidly and will continue to do so. Currently the US is embroiled in the prisoner abuse incidents in Iraq and is floating a draft resolution in the UN Security Council calling for an international peacekeeping force in Iraq. Perhaps the military will learn from the incidents of prisoner abuse some very insightful lessons about military culture and perhaps UN peacekeepers will move in to Iraq. The lessons that could be learned and the success of peacekeepers could help positively frame the debate around a constabulary force. Other events will also shape the debate such as the US experience in Haiti and the broader global war on terrorism.

As events transpire, the need for a force trained in establishing the rule of law and effective criminal justice systems, independent of DoD, will become more evident. The requirements and capabilities needed to win wars and to win peace and build nations are distinctly different. A constabulary force is one of those requirements and capabilities that can win the peace and help build stable nations.

## **Annex A**

### **List of Acronyms**

AC: Active Component

CIA: Central Intelligence Agency

CIVPOL: Civilian Police

COPS: Community Oriented Policing Services

DC: Deputy Commissioner

DCDO: Deputy Commissioner for Domestic Operations

DCFD: Deputy Commissioner for Force Force Development

DCFEO: Deputy Commissioner for Foreign/Expeditionary Operations

DCT&R: Deputy Commissioner for Training and Readiness

DHS: Department of Homeland Security

DoD: Department of Defense

DOJ: Department of Justice

ECJA: Expeditionary Criminal Justice Agency

EU: European Union

FBI: Federal Bureau of Investigation

FEMA: Federal Emergency Management Agency

FPS: Federal Protective Service

GWOT: Global War on Terrorism

HSEA: Homeland Security Agency

ICITAP: International Criminal Investigative Training Assistance Program

MP: Military Police

NATO: North Atlantic Treaty Organization

NG: National Guard

NSC: National Security Council

NSSE: National Special Security Event

RC: Reserve Component

RCC: Regional Combatant Commander

SWAT: Special Weapons and Tactics

TSA: Transportation Security Agency

UN: United Nations

US: United States

USAID: United States Agency for International Development

USBP: United States Border Patrol

USCS: United States Customs Service

USMS: United States Marshal Service

USSS: United States Secret Service

## **Annex B**

### **Constabulary Force Equipment**

#### **Individual –**

Handgun - .40 cal  
Assault Rifle – M4  
Ballistic Vest  
Ballistic Helmet  
Personal Riot Control Gear – Shoulder/Chest/Arm/ protector, shin guards, face shield, groin guard, shield, baton  
Collapsible side-handle baton- PR-24  
Tazer-stun gun  
Pepper Spray Dispenser  
Personal Radio Handset  
Chemical Protective Mask  
Duty belt with ammunition pouches, handcuffs (2), flashlight, knife

#### **Team Level Equipment-**

Squad Automatic Weapon (5.56mm)  
40 MM Grenade Launcher- M203 or M79  
Night vision devices – goggles and scopes X 5 for each member and weapon system  
Shotguns X 2  
Stop-sticks (rapidly deployable obstacle to puncture vehicle tires)  
Capture net (device that deploys a net over an uncooperative suspect, restricting mobility)  
Standard lethal munitions  
Nonlethal munitions (CS grenades, grenades containing rubber balls, flash-bang grenades, smoke grenades, bean bag and/or rubber ballshotgun rounds, 40mm sponge/bean bag rounds)  
Megaphone/loud hailer

#### **Platoon Level Equipment**

Vehicle Public Address System  
Mark-19 Machine Guns (4)  
50 caliber Machine Guns (2)  
M-60 Machine Guns-7.62mm (2)  
Pepper Fogger (Broad Area Riot Control Agent Dispenser)  
Sniper Sets

#### **Company Level**

Vehicles –  
Light Assault Vehicles – Strykers  
UpArmored High Utility Multiwheeled Vehicles  
4WD Sport Utility Vehicles  
Cargo Trucks

(Vehicle mixture would depend upon environment of theater. Initially a force may deploy with a heavy mix of Strykers and UpArmored HUMMV's and transition to Sport Utility Vehicles when the situation becomes stable.)

Weapons

81 MM Mortars (4)

Water Canons-dye dispensing

Communications

Base Stations and Repeaters

## Endnotes

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- <sup>3</sup> Fukuyama, p. 159.
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- <sup>5</sup> Commission on Security and Cooperation in Europe, "Hearing: Civilian Police and Police Training in Post-Conflict OSCE Areas" Robert M. Perito, September 5, 2001. p. 6  
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- <sup>6</sup> Perito, Robert M., *Where is the Lone Ranger When We Need Him?* Washington, DC: United States Institute of Peace Press, 2004: p. 71.
- <sup>7</sup> Commission on Security and Cooperation in Europe, pp. 5-6.
- <sup>8</sup> United States Department of Justice, International Criminal Investigative Training Assistance Program, "Building Law Enforcement Institutions Worldwide," <[www.usdoj.gov/criminal/icitap/index.html](http://www.usdoj.gov/criminal/icitap/index.html)> site last visited on 15 April 2004.
- <sup>9</sup> Ibid.
- <sup>10</sup> Bronson, Rachel, "When Soldiers Become Cops," *Foreign Affairs*, Vol 81 No. 6, November /December 2003: p. 129.
- <sup>11</sup> Commission on Security and Cooperation in Europe, p. 5.
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- <sup>13</sup> Ibid.
- <sup>14</sup> DynCorps, "International Police Programs Information Source" <[www.policemission.com/iraq.asp](http://www.policemission.com/iraq.asp)> site visited last on 15 April 2004.
- <sup>15</sup> Perito, pp. 282-287.
- <sup>16</sup> Ibid.
- <sup>17</sup> United States Institute of Peace, "Special Report 71-American Civilian Police in UN Operations: Lessons Learned and Ideas for the Future." Washington, DC, United States Institute of Peace Press. 6 July, 2001: p. 7.
- <sup>18</sup> Bronson, p. 128.
- <sup>19</sup> Ibid and United States Institute of Peace, "Special Report 85 and personal conversation on 15 February 2004 with four officers deploying to CIVPOL operations in Iraq.
- <sup>20</sup> Perito, p. 96.
- <sup>21</sup> Fukuyama, p.3.
- <sup>22</sup> Fireman, Ken and Lane, Earl, "U.S. Under Fire for Failure to Halt Looting," *Newsday.Com*, April 12 2003 <[www.newsday.com/news/nationworld/world/ny-woolot123217214apr12,0,3802494](http://www.newsday.com/news/nationworld/world/ny-woolot123217214apr12,0,3802494)> site last visited on 20 February 2004.
- <sup>23</sup> Ibid.
- <sup>24</sup> Ibid.
- <sup>25</sup> Wilson, James Q. and Kelling, George L., "Broken Windows," *The Atlantic Monthly*, March 1982, Vol 249, No 3., p. 29-38.
- <sup>26</sup> Task Force Smith was the first unit that the U.S. deployed to S. Korea following the attack by North Korea in 1950 in to S. Korea. Because the unit had been performing constabulary duties in Japan prior to its deployment it was ill-prepared for the mission and dismally failed with a very high casualty rate.
- <sup>27</sup> Personal knowledge gained while at the US Army Command and General Staff College in 1991. During that period Gen Sullivan visited the college no less than twice and a video tape was shown where these words were stated over and over again.
- <sup>28</sup> Fields and Perito, pp. 85-86.
- <sup>29</sup> Nagl, John A. and Young, Elizabeth O., "Thinking Innovatively About U.S. Military Force" December 2000, <[www.ciaonet.org/isa/naj02/](http://www.ciaonet.org/isa/naj02/)> site last visited on 20 February 2004.
- <sup>30</sup> Bronson, p. 128.
- <sup>31</sup> Schrader.



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- <sup>33</sup> Bronson, p. 126.
- <sup>34</sup> The White House, President George W. Bush State of the Union Address, 20 January 2004. <[www.whitehouse.gov/news/releases/2004/01/20040120-7.html](http://www.whitehouse.gov/news/releases/2004/01/20040120-7.html)> site last visited on 23 May 2004..
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- <sup>36</sup> Day, Graham, "After war, send blue force," *Christian Science Monitor*, May 30 2001, <[www.search.csmonitor.com/durable/2001/05/30/p11s2.htm](http://www.search.csmonitor.com/durable/2001/05/30/p11s2.htm)> site last visited on 20 February 2004.
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- <sup>38</sup> Barnett, Thomas, "Live with TAE," *The American Enterprise*, December 2003, p.16.
- <sup>39</sup> The White House, The National Security Strategy of the USA, Washington, DC, September 2002, p. 15.

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<sup>64</sup> Perito, p. 246.

<sup>65</sup> Ibid. p. 85.

<sup>66</sup> Examples of this are numerous in Perito's *Where is the Lone Ranger When We Need Him?* Chapter 1 provides a most illustrative example.

<sup>67</sup> Fukuyama, pp. 4-6.

<sup>68</sup> Bronson, p. 128.

<sup>69</sup> Nagl, John A. and Young, Elizabeth O.

<sup>70</sup> US Department of Defense, "Unified Command Plan," <[www.defenselink.mil/specials/unifiedcommand/](http://www.defenselink.mil/specials/unifiedcommand/)> site visited last on 22 March 2004.

<sup>71</sup> Foley, David BG, "The Military Police Corps," *Policing the New World Disorder: Peace Operations and Public Security*. Washington, DC: National Defense University Press, 1998: pp. 548-550.

<sup>72</sup> US Department of Homeland Security, "DHS Organization,"

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<sup>73</sup> Particularly noteworthy is Morris Janowitz's statement which the author of this paper fully agrees with as a career US Army MP officer.

<sup>74</sup> Flournoy, Michele, and Pan Micahel, "Dealing With Demons: Justice and Reconciliation, The Center for Strategic and International Studies and the Massachusetts Institute of Technology, published in *The Washington Quarterly*, Autumn 2002: p. 111.

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