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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON CRIME
HOUSE COMMITTEE ON THE JUDICIARY
ON
MILITARY COOPERATION WITH CIVILIAN
LAW ENFORCEMENT AGENCIES



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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here, at your request, to participate in hearings on military cooperation with civilian law enforcement agencies. Our testimony today is based on information contained in our recently released report on Federal drug interdiction efforts. ^{1/} The use of the military to assist Federal drug law enforcement agencies is one of the major issues discussed in our report.

The military has become much more involved in drug interdiction efforts since the changes to the Posse Comitatus Act in

^{1/}"Federal Drug Interdiction Efforts Need Strong Central Oversight," (GAO/GGD-83-52, June 13, 1983).

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December 1981. Initially, after enactment of the amendments, Federal law enforcement agencies independently requested military assistance with little coordination among themselves. The result was some poorly planned projects that did not make the best use of military resources. Coordination is critical in this area because military assistance is costly, not only from a financial point of view, but also because of the potential impact on national security. Officials of the Department of Defense and law enforcement agencies quickly recognized the need to better coordinate future projects and formed a special group to assure that all requests from law enforcement agencies for military assistance are properly coordinated.

In the remainder of my statement I will touch on:

- the previous limitations of the Posse Comitatus Act and the assistance provided under the act before it was revised in December 1981;
- the amendments to the act and the resulting increase in military assistance; and
- several factors that continue to limit military assistance.

POSSE COMITATUS LIMITED MILITARY ASSISTANCE TO LAW ENFORCEMENT

First, prior to December 1981 assistance provided by the Armed Forces to civilian drug law enforcement efforts was limited by the Posse Comitatus Act. Due to ambiguities in this act regarding the allowable scope of military involvement in civil law enforcement operations, the military departments were

very cautious in providing assistance. Both military personnel and law enforcement officials told us the Act was the primary factor limiting assistance.

Despite these limitations, the military still assisted law enforcement to some extent. Records maintained by DOD indicate that from 1971 to 1981 assistance had been provided by the Army, Air Force, and Navy, including training, assistance in transporting drug smugglers, loan of equipment, use of facilities, and use of personnel. Specifically, during that 10-year period Federal law enforcement agencies made 156 written requests for military assistance, of which 90 percent (140) were approved. Customs made more than 70 percent (111) of the requests. In addition to these documented instances of assistance, there were numerous occasions where minor assistance was authorized by local military commanders.

Desiring greater involvement of the military to help stem the flow of drugs to the United States, the Congress passed and the President signed the Posse Comitatus Amendment on December 1, 1981 (Public Law 97-86). This amendment was designed to remove certain restrictions and ambiguities and facilitate cooperation between military and civilian officials. Underlying the action of the Congress was the notion that even though the times called for fiscal restraint, all possible resources should be utilized to combat narcotics trafficking; all involved agencies should cooperate, and perhaps the greatest untapped resource was the Department of Defense.

POSSE COMITATUS AMENDMENT HAS
RESULTED IN MORE MILITARY
ASSISTANCE TO LAW ENFORCEMENT

After the Act was amended in December 1981, military assistance to drug law enforcement increased. As required by the legislation, DOD issued a directive (DOD Directive 5525.5) on March 22, 1982, that established uniform DOD policies and procedures governing support provided to Federal, State, and local civilian law enforcement efforts. The policy stipulates that DOD will cooperate with civilian law enforcement agencies to the maximum extent practicable, consistent with the needs of national security, military preparedness, and the historic tradition of limiting direct military involvement in civilian law enforcement activities.

Since December 1981, DOD has provided increased assistance for drug interdiction. For example:

--In March 1982, the Navy began flying E2-C aircraft equipped with APS 125 radar in South Florida to assist Customs in identifying and tracking air smugglers as a part of the South Florida Task Force.

--Also as a part of the South Florida Task Force, the Army loaned two Huey helicopters to DEA and four Cobra helicopters to Customs to aid in air interdiction.

--In April 1982, the Air Force agreed to allow Customs to use a tethered balloon airborne radar facility, known as Seek Skyhook, in the Key West area of Florida to aid in detecting air smugglers. The Air Force also agreed to install an additional Seek Skyhook-type radar facility at Patrick Air Force Base (near Cape Canaveral) to provide greater radar coverage of South Florida.

--And, fourth, the Navy has recently agreed to provide six P-3A aircraft to Customs for border surveillance

purposes. The aircraft will be outfitted with radar and are expected to be phased in during fiscal years 1984 and 1985.

Clearly, the changes to the Posse Comitatus Act have encouraged greater participation by the military in the Federal drug interdiction effort. The full impact such assistance will have on drug smuggling cannot yet be determined.

SEVERAL FACTORS CONTINUE TO
LIMIT MILITARY ASSISTANCE

The last matter I would like to mention deals with several factors that continue to limit military assistance. Although military assistance to law enforcement has increased and new avenues for assistance are being explored, several factors necessarily limit such assistance. First, military systems and activities often are not compatible with the needs of law enforcement. Adjusting military activities to fit law enforcement needs can adversely affect military preparedness. In addition, unless assistance provided to law enforcement is an incidental part of a military mission, DOD is required to obtain reimbursement under certain circumstances. Such costs could be quite high compared to available law enforcement budgets and reimbursement could severely strain such budgets. Also, there is concern that use of sophisticated military systems for law enforcement could result in disclosure of classified information on those systems in criminal court proceedings. According to some military officials, this disclosure could compromise national security.

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In summary, Mr. Chairman, the military can provide valuable assistance to civilian law enforcement in the area of air and sea interdiction. Since the 1981 amendments to the Posse Comitatus Act the military has made a number of substantial contributions to Federal interdiction efforts. We expect that the instances of such military assistance will increase in the future as defense and law enforcement agencies continue to work together to explore the full range of possibilities for a coordinated attack on drug smuggling.

That concludes my statement, Mr. Chairman. We will be happy to answer any questions for you or other members of the subcommittee.