



NTOA FEATURE



Special operations members engaged in dynamic entry in Iraq. (Photo courtesy of USSOCOM PA)

Convergence: The blurring of crime and war

By John B. Alexander and Mark B. Alexander

For many decades the roles and missions of the U.S. military were viewed as separate and distinct from those of civilian law enforcement. However, in the past few years, this view has changed rather dramatically. On the military side of the equation, units engaged in combat operations in the Middle East have been required to obtain warrants before conducting raids, gather evidence to support prosecution of suspects and occasionally testify in foreign courts. Such functions have never before been assigned to military units operating in combat zones. Though not exclusively, these new missions often fell to special operations forces (SOF) comprised of U.S. Army Special Forces, Rangers and U.S. Navy SEALs.

From the civilian law enforcement perspective, the threats presented by gangs and organized crime have been ever-increasing.

Public availability of advanced technology and more powerful weapons constantly escalates. Sheriffs along the southern border have reported interdicting drug smuggling incursions that are protected by criminal groups that employ small unit tactics, similar to those of a military force. In fact, some of these criminal elements have received military training from the U.S. The infamous Los Zetas, who initially defected from the Mexican Army Special Forces, are such an example.

There have been cooperative training ventures between military SOF and SWAT teams for many years. While some of the basic skills, such as long rifle, explosives training and physical preparedness, are similar, it is the differences that enhance this symbiotic relationship. Traditionally SWAT units have been employed in serving

high-risk warrants. In doing so they perfected the art of dynamic entry and quickly subduing suspects. Their expertise was useful in assisting SOF teams as they developed similar techniques required by the increasing urbanization of warfare. The military provided a wealth of knowledge in acquisition and use of high technology along with techniques for neutralizing threats with capabilities not usually associated with common criminals.

While mission convergence had been occurring before, it was the dramatic increase in terrorism that rapidly brought them much closer. For SOF, a driving factor was the propensity to address terrorism as criminal activity rather than irregular or low intensity warfare. Instead of capturing or simply killing enemy combatants, teams were required to focus identifying

the perpetrators, then obtaining sufficient information that could ultimately be used to convict the terrorist before a foreign judge in a courtroom.

In the event the terrorist was likely to be killed, the SOF teams had to prove legal sufficiency before the operation was undertaken. Then, they were subjected to post hoc investigation of the shooting, a process very similar to that conducted by internal affairs and homicide divisions of civilian LE agencies when a suspect is shot. Unfortunately, such reviews have led to formal charges against SOF operators that in wars past would never have been rendered. Understanding how SWAT limits personal liability in use-of-force is one area in which agencies can provide advice to the military.

Casualty acceptability differs

Acceptance of collateral casualties is considerably different between SOF and law enforcement, but here, too, the basic concept is closing rapidly. While SWAT

teams operate within the community in which they live, foreign deployed SOF teams are always functioning in somebody else's neighborhood. Traditionally, collateral casualties have been an unfortunate, but acceptable, byproduct of war. In recent years, however, the American public has become far less tolerant of excessive killing. As the military engages increasingly in counter-insurgency (COIN) and counterterrorism operations, unwarranted casualties become counter-productive to the long term objectives of those operations.

Conversely, civilian law enforcement agencies have zero tolerance for unnecessary casualties, even though they do occur on occasion. As with the foreign COIN missions, fatalities of innocent bystanders, or even armed suspects, has a negative impact on the relationship between the community and the LE agency involved. Great care is taken to avoid collateral damage and casualty-producing tactical airstrikes are not part of the inventory.

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Impact of new terrorist threats

Of major concern is a shift in counterterrorism which once focused on preventing an event or suppressing it quickly. Incidents such as the destruction of the Murrah Federal Building in Oklahoma City or the aircraft attacks of 9/11 resulted in post hoc damage mediation and investigation to identify the criminals involved. Shortly thereafter, however, several major events abroad raised the specter of a very different kind of threat—terrorists who come to die!

The first such major event occurred with the takeover of the Moscow Nord Ost Theater in October 2002. In this raid, a force of between 40 and 50 heavily armed Chechen terrorists took an estimated 850 people hostage. While their leaders did enter into negotiations, their intent was to blow up the building under the most spectacular circumstances available in order to draw attention to their cause. None of those terrorists who participated had any expectation of leaving the area alive. They got their wish, but more than 120 hostages also died, many due to the incapacitating chemical used in the rescue effort.

The next such incident took place at an elementary school in Beslan, North Ossetia, Russia. The siege began on September 1, 2004 when other Chechen rebels took over



The commonalities between the Special Forces soldier in training (left) and the Las Vegas SWAT officer engaged in executing a high-risk search warrant (right) are remarkable. The equipment is nearly identical. (Photos courtesy of USSOCOM PA and John Alexander)

1,100 people hostage, including 777 children. The crisis ended with an ill-prepared attack three days later, but more than 300 of the hostages lay dead from gunshots and explosives and several hundred more were wounded. Notably, the school was located adjacent to a police station and many weapons had been placed on site well before the incident began. The stashed weapons went unnoticed and close proximity of police did nothing prevent the attack. It is believed that most of the terrorists died in the conflagration, but some may have slipped away in the ensuing confusion.

The December 2008 multiple attacks in Mumbai took terrorism to a new level. There was a total of ten coordinated attacks at various locations, all occurring within a short period of time. These included the takeover of two major hotels as well as bombings and shootings at other locations. Again, the incident continued for several days. When it ended, 166 hostages and security personnel were dead and more than 300 others injured. One terrorist was badly injured and captured while the others who were known were killed. In this case, the terrorists were in telephone communication with their leadership in Pakistan throughout the attacks. Their conversation was intercepted and included discussion that their imminent deaths were an important factor for the success of the operation. The planning, logistics and execution of these attacks provided a case study in just how sophisticated terrorism has become.

These three incidents have several important factors in common. They were designed to inflict mass casualties and have a high public profile. The terrorists held no value in the lives of hostages, nor did they expect to trade for their release. The first responders were local police. As such, they were instantly overwhelmed with the magnitude and gravity of the situation. The national leadership quickly assumed command of the situations and brought in military units for the counterterrorist operations. Very importantly, all of the terrorists conveyed a willingness to die and knew that being captured alive was highly undesirable.

Moving forward

The relegation of terrorism to be defined as criminal activity has happened. This has had significant impact on how SOF elements execute their missions. Unfortunately, there was almost no training to prepare them for these legalistic aspects of

these operations. This is a huge deficiency and should be rectified by more extensive interagency cooperation.

The threat of a major terrorist attack resulting in a siege cannot be taken lightly. Preparation for remediating terrorist situations such as those described in this article



Members of LASD Special Enforcement Bureau engage in an arrest on Los Angeles Freeway. Note the long rifleman in overwatch position. (Photo courtesy of LASD)



Member of Los Angeles SD in sniper training. (Photo courtesy of LASD)

requires extensive coordination on the part of all units that will be involved in responding. Planning that includes only command and control elements will be insufficient. The potential for such a situation occurring in the U.S. suggests that extensive coordination is required between the military and civilian law enforcement agencies.

The Posse Comitatus Act does not inhibit cooperation as much as is commonly believed. Certainly SOF teams will continue to play an active role in counterterrorism operations, some of which may occur on American soil. As such, they are in need of developing the skills already extant in civilian SWAT elements, as well as preparing for direct intervention in ways not previously envisioned. It is imperative that all jurisdictional issues be resolved before such an incident occurs.

The blurring of war and crime has substantial ramifications for both law enforcement and the military. This trend is accelerating the convergence of essentially the same job function, albeit in two different disciplines. It appears that neither set of organizations fully comprehends the impact this will have on everyone.

called “Convergence: Special Operations Forces and Civilian Law Enforcement.” The study can be accessed at http://jsoupublic.socom.mil/publications/jsou/JSOU10-6alexanderConvergence_final.pdf. ◀

About the authors

John B. Alexander, Ph.D. is a retired U.S. Army colonel who commanded Special Forces in combat in Southeast Asia and more recently was a mentor to the Minister of Defense in Afghanistan. He is currently a Senior Fellow at the Joint Special Operations University. A world-renowned expert in non-lethal/less-lethal weapons, he also served as a deputy sheriff in Dade County, Florida.

Lieutenant Mark B. Alexander is an 18-year veteran of law enforcement and is assigned to the Special Investigations Division of the Palm Beach County Sheriff’s Office in West Palm Beach, Florida. His assignments include serving as an internal affairs investigator, district road patrol supervisor and watch commander. Currently he is assigned as the executive officer in the special investigations division.



Understanding how SWAT limits personal liability in use of force is one area in which agencies can provide advice to the military.



The issues described briefly in this article have been laid out in much greater detail in a study published in July 2010 by the Joint Special Operations University at MacDill Air Force Base in Tampa, Fla.

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