

Introduce self

This paper covers special operations, but it is somewhat limited in that it is UNCLASSIFIED, and all of my sources were also unclassified.

Also, keep in mind that my discussion of the Executive branch can apply to any administration, past, present, or future.

With those caveats, let's get started...

Politics is one of the pitfalls for public engagement with the military. My paper focuses on U.S. Special Operations Forces, their organizational structure, and how that relates to American politics. I argue that the need for fast-response options for the Commander-in-Chief led to the current organizational structure, but that there are operational and legal dangers which Congress and the American voting public seem to ignore. This paper was born out of this question: Why is the Joint Special Operations Command organized as a special section of the Special Operations Command?

My argument has both historic and historiographic significance. The **historic** significance centers on the 1986 Nunn-Cohen amendment to the Goldwater-Nichols reforms which established SOCOM and placed the Joint Special Operations Command under it, and the liberal provisions of the 1973 War Powers Resolution, which create a loophole for Presidential misstep.

The **historiographic** significance centers on the present scarcity of analysis of special operations command structure, and the corresponding legal and ethical issues. Very little writing exists on the subject of SOCOM's organizational structure—even less on JSOC. There is no shortage of books on the various units that make up SOCOM, but they generally focus on the units' rigorous training or derring-do. Many of these sources are little more than "coffee table" books for Green Beret or Navy SEAL fetishists. Most of the books about SOCOM merely mention JSOC, and do no more than explain what the command's components are. The historiography is (and the American people are) focused more on lionizing Navy SEAL teams and Delta Force than addressing the Constitutional weakness of the status quo.

I'll present my argument in four sections. First, I will briefly explain the historic problems that special operations forces have faced, the creation of the Nunn-Cohen amendment, and the potential problems Nunn-Cohen causes. Secondly, I will cover the basics of civil-military relations, and how that subfield of sociology relates to special operations. In the third section I will analyze the parallel between SOF activities and the Central Intelligence Agency's clandestine operations. Finally, I examine the political and operational risks that are inherent to the post-Nunn-Cohen organization.

(Lone survivor image)

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PART 1 SOF problems and the Nunn-Cohen Amendment (Desert One image)

One of the historical problems for US SOF is the struggle for resources. If left to the DoD's conventional components, SOF advanced weaponry, money for training, and transportation to the battlefield all take a backseat. Until the creation of SOCOM, SOF units were at the budgetary mercy of senior military leaders who usually had disdain for special operations. SOF were almost completely purged from the DoD after the Vietnam War. The DoD leadership's scorn was rooted in the idea that only the weaker party, in asymmetric conflicts, used unconventional methods. This fundamental misunderstanding led to sparse funding for SOF elements, and in turn, atrophy in mission-readiness.²

In Vietnam, the Green Berets made a name for themselves with their wildly unconventional methods, but Operations Eagle Claw and Urgent Fury (the Iranian hostage crisis rescue attempt and the Grenada invasion, respectively) are the most recent examples of conventional planners incorporating SOF poorly.³

Retired JSOC commander Major General Richard Scholtes' testimony before Congress in 1986 regarding JSOC's performance during Operation Urgent Fury (the Grenada invasion) encouraged Congress to stipulate the creation of SOCOM in addition to the Goldwater-Nichols reforms that were being made at that time. He delivered the testimony to a Senate subcommittee, and his testimony, mostly classified, was enough to convince William Cohen and Sam Nunn to author an additional bill, one that mandated the creation of SOCOM.⁸ He saw JSOC (pre-SOCOM) as unable to achieve its function effectively, principally because of funding issues, and his inability (as a two-star general) to garner support in Washington. He also explained that while he commanded JSOC, Urgent Fury planners appropriated and misused his units, which resulted in unnecessary casualties.⁹

JSOC's capability and professionalism have benefitted immensely from the Nunn-Cohen consolidation. From SOCOM's inception, its leaders envisioned it as an additional branch of the armed forces. In this context, JSOC is the "special" component of the U.S. Special Operations "branch." This umbrella situation provides the environment for increased professionalism, more mission-oriented training, and more efficient use of funds for SOF. JSOC has performed its missions without any major public failures since Nunn-Cohen, which is the best measure of the legislation's success.¹⁰

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PART 2 Civil-Military Relations and Special Operations (McRaven testimony image)

I'd like to outline the basic components of the civil-military relations field of sociology, as established by Samuel Huntington in the 1950s. Though civil-military relations has gained a place in the academy since Huntington formalized it, special operations have received little attention from the sociological subfield. Special operations is an ideal study for the interaction between society and the military, though.

The role of the military in society is one facet of the relationship. How societies control their militaries is where the rubber meets the road for civil-military relations. There are three main trouble spots for SOF in the civilian control arena: 1) Huntington's objective and subjective senses of control, 2) the President's control style, and 3) Congressional abdication of war-making authority. All three of these have evolved together to provide an environment ripe for error.

One of Huntington's most useful frameworks for the study of civil-military relations was the delineation between civilian control of the military in the subjective and objective senses. This is the first trouble spot. In the **subjective** sense, civilians maximize power over the military, but governments that are internally conflicted or that have decentralized power juggle the control of the military between the controlling groups – e.g. the executive and legislative branches. The question in this case is not “who has control – civilians or the military?” but “which **group** of civilians has control of the military?”

Civilian control in the **objective** sense is contingent on the professionalization of the military. The military must professionalize to such an extent that they are completely detached from politics and follow the orders of whichever group of civilians maintains legitimate political power.

Civilian control of the military tends to lean toward one of Huntington's two styles, but there are elements of both in the case of American SOF (and the American military in general). Prior to Nunn-Cohen, civilian decision-makers governed SOF in a predominately subjective sense, partly because the SOF workload was not as high as it became in the era of globalization. Since Nunn-Cohen, civilians have managed SOF in the objective sense because the legislation opened the door for a high degree of professionalization and SOF assets became “tools of the state.”

Presidential control style is the second trouble spot for SOF. Huntington identifies three types of presidential control: Balanced, coordinate, and vertical. These types have a direct application to the study of special operations, particularly in the 21st century. In a system of **balanced** Presidential control, the President focuses on policy and leaves military administration to the Secretary of Defense. When Presidential control is **coordinated**, the military chief has direct access to the President, which involves the chief in politics and tempts the President to get personally involved in military operations. **Vertical** Presidential control is a pure hierarchy: It proceeds from the Commander in Chief, to the Secretary of Defense, to the military chief.²²

Insofar as civilians control the U.S. military in Huntington's objective sense, the executive branch has had the ascendancy from the time of the Vietnam War. Congress has not maintained its constitutional authority over war-making since the 1973 War Powers Resolution. Congressional abdication is the third trouble spot. The 1973 War Powers resolution has shifted responsibility toward the Executive and tilted the American process toward the objective sense of control. Congress **intended** the resolution as a reassertion of its war-making authority, but since it passed, the Executive branch has had a few solid challenges to its operations.²⁴

When Huntington opened the discussion of American civil-military relations, the US was developing what President Eisenhower called (in his 1961 farewell address) the “military-industrial complex.” The Department of Defense, first established by the National Security Act of 1947, was finding its footing, and focused on the gargantuan task of countering Communism. The American population lived in fear of nuclear apocalypse, and almost no defensive measure was out of the question – the Cold War was in full swing. The societal need for security brought forth the bureaucratic monster that Eisenhower warned of, and the same need produced the explosively powerful JSOC forces of the 21st century.

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PART 3 CIA parallels (Raymond Davis image)

The 1947 National Security Act created another tangent in the Cold War story, and a new batch of political headaches. This section is devoted to the ramifications of the current SOF structure, and the parallel between (and overlap of) SOF activities and the Central Intelligence Agency’s clandestine operations.

The massive build-up of special forces throughout the current “war on terrorism” is dangerous for the SOF community, because their precision and explosive force (especially when they are battle-tested and proficient in conventional tactics) are a tempting tool for short-suspense, global missions; missions of questionable legality and grave international consequence.²⁸

Congress set a precedent for intervention in covert programs by legislating changes to the process of CIA oversight, but Capitol Hill has not engaged the discretionary nature of the executive branch’s control of SOF assets. As early as 1984, there was congressional concern about the SOF units designed for anti-terrorism operations. The worry was that “the units might become a uniformed version of the Central Intelligence Agency and be used to circumvent Congressional restrictions and reporting requirements on intelligence activities and the use of American forces in combat operations.”³⁰ The bureaucratic principle that “stringent reporting requirements can produce an unintended incentive to bypass the established decision process” should compound this anxiety. The sensitive (often secret) nature of SOF operations makes bureaucratic wickets even less appealing to decision-makers.³¹

Apart from any desire to circumvent oversight, the attractiveness of SOF (particularly for casualty-averse societies) is that they are less of a casualty risk than conventional forces. The deployment of a handful of men to conduct an operation that might deter a future war is the epitome of “economy of force.” Even if disaster strikes, and destroys the entire team, less is lost (in the eyes of a detached populous) than if the U.S. started a full-scale war. (And I’m going to upset my Air Power brothers and sisters in the room here...) There is also less risk of collateral damage, because of the surgical nature of SOF strikes, than there is with less precise bombing or missile strikes.

Another factor that makes SOF attractive is their unconventional, elite methodology. SOF are desirable in the current era of limited warfare because their capabilities for covert action make them ideal tools to dispatch threats quietly. In the post-9/11 environment, Secretary of Defense Donald Rumsfeld proposed that exact scenario. He saw SOF as a potent tool to eliminate terror threats and protect the U.S. in a way that the intelligence community alone had been unable to leading up to the World Trade Center attack. The issue for the CIA had been the non-availability of resources, but the proposal to use SOF for traditional CIA missions – essentially as CIA operators, to fill the gaps for the CIA - threatened the special operators' status under the Geneva Convention.³²

The evolution of Rumsfeld's plan is understandable. The covert nature of SOF tends to make them bedfellows with the CIA – their roles are complementary on the battlefield. This is essentially because SOF “are both users and producers of intelligence.”³³ From its earliest days, the present war in Afghanistan was the scene of some high-profile collaboration between SOF and the CIA. The first U.S. casualty in Afghanistan was a Special Forces soldier who died in an ambush. During the same ambush an Agency operative was wounded. In theaters where the intelligence picture is unclear or mostly dark, CIA assets are useful for military operations and SOF are better able to operate than conventional forces. When SOF and CIA operate together though, the odds are good that one of them is on shaky legal footing.³⁴

If SOF execute traditional CIA missions, they run the risk of the enemy classifying them as spies or murderers. This is a danger when special forces operate in countries upon which the U.S. has not declared war, and even more so in established combat zones when the soldiers are not identifiable by uniforms or other Geneva Convention accouterments. This is a risk that the President should not expect special operators to take, and one that every echelon of the military chain of command should resist, based on a professional respect for the laws of war.³⁷ The potential for the CIA's operational assets and SOF to blur the lines of legality and ethics under the president's direction was made clear in the early days of the current anti-terrorism conflict. There was immediate push-back against Secretary of Defense Donald Rumsfeld's proposal to use SOF units as un-uniformed hit squads against al Qaida around the globe, but the temptation stands as an example for analysis of the current force structure. One paradox is apparent: Lack of oversight leaves the door open to unlawful use of elite assets, while heavy bureaucracy provides a temptation to circumvent the system.³⁸

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PART 4 The political and operational risks (Situation room image)

Here are a few political and operational risks that are inherent to SOF after Nunn-Cohen:

When and how should the U.S. use SOF? Not only is it possible for the President to take control of a SEAL team, he may also charge them with missions that are not normally in the scope of SOF responsibility. The likelihood of this occurrence is small, but the power exists, and if

exercised, Congress assumes the President would do so within U.S. and international legal parameters. This is a precarious assumption.

The consolidation of such alluring assets so close to the top of the chain of command presents some ethical and operational problems. One ethical problem is that the use of SOF can pose a shortcut to the more intense diplomacy required when conventional forces are the most readily available military option. Prior to the September 11th attack, there was a great deal of hesitation to commit conventional troops in counter-terrorism operations. The post-9/11 sociopolitical climate is substantially less stable and the threshold for U.S. troop involvement is correspondingly low. There is some discussion that the usual method of police response to international terrorism has not proved effective enough in the past three decades. SOF are the middle ground between scorched-earth conventional war, low-intensity police work, and diplomacy: Policymakers who hesitate to deploy regular military forces see special forces as the ideal response to insurgencies, terrorist actions and hostage taking. On top of that, they believe special operations will face less congressional oversight than traditional intelligence agencies.⁴²

The CIA already has networks established across the world and is more coordinated with the Department of State than is the DoD. Even though SOCOM has more funding and manpower, military units that operate clandestinely have little assurance that their activities fit “with established U.S. foreign policy.”⁴³ A full examination of the disjunction between the State and Defense departments is beyond the scope of this paper, but it is enough to point out that it is a minefield for SOF.⁴⁴

Each Presidential administration has its own personality, which affects the way it handles special operations. In the present administration, JSOC missions in particular have increased in profile, even as U.S. conventional engagements come to a close. The institutional framework for control and employment of SOF must be resilient, no matter which leadership style, personality, or zeitgeist dominates the White House and Pentagon.⁴⁵

Richard Hooker claims, in the context of Urgent Fury, that the ever-shortened decision-making timelines of the current era tend to cause personality and monopoly of information to outweigh organizational systems. This implies that the checks and balances *already* in place between Congress, the Executive branch, and the DoD may not be enough to prevent a misstep in the use of executive authority. Hooker refers to the danger of improperly vetted advice making its way to the President, but the problem could work both ways. If critical timelines cause breakdowns in advisory channels, it would be even easier for leaders (or the President himself) to compromise the system of checks and balances from the top, down, in an emergency.⁴⁶

The War Powers Resolution is little help because it allows the President to execute military action – for 48 hours – without consulting Congress. It is most likely that when SOF are committed, they will be committed in scenarios that fit the less-than-48-hours profile, because the short-duration missions “tend to be carried out so quickly and discreetly that criticism of

them will be belated.”⁴⁹ The only deterrent to Executive abuse of SOF capabilities in these situations is mere self-preservation and the tenuous authority of American moral tradition.

President Carter’s failed 1980 reelection campaign stands as a testament to the political risk involved in the use of elite forces. The Iran hostage crisis ended the day President Reagan took office, which demonstrates how much the situation in Tehran affected the Carter administration. Domestically, presidents can lose favor with their constituency, but a single failed SOF mission can affect U.S. international relations for decades, as the still-unresolved Iranian diplomatic situation demonstrates.⁵⁴

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Conclusion (SEALs image)

There are three types of problems with the present U.S. SOF structure and operations: Legal, ethical and operational. The **legal** problems are most serious for U.S. **international relations**. A compromised, illegal intrusion on another state’s territory can sour (or cause the severance) of relations with that state, no matter how friendly they were previously. This sort of disaster can have a domino effect, and make diplomatic efforts difficult across the entire globe. **Ethical** violations have the most effect **domestically**. The American people are fond of the military, for the most part, and will direct their disappointment about improper employment of the armed forces toward their elected officials. **Operational** misuse does the most damage **internally to the DoD**. If the highest echelons of the chain of command (including the Commander-in-Chief) subvert the chain of command and conduct operations outside the established structure, trust and cooperation between the services, and between conventional and special forces can break down.

I do not intend this paper as a prescription to solve SOF problems, but as an analysis of the present situation, the course of events that led to it, and the possible outcomes. It is difficult to imagine a scenario where the abolition of SOCOM or even JSOC is advisable, because the U.S. simply cannot expect its conventional forces to counter the short-fuse situations that arise in the globalized era. The problem is that the power of American armed forces training, experience, and technology is concentrated in such an accessible and pure form that the executive branch plays with fire whenever it deploys JSOC units.