

The Militarization of Law Enforcement: Does the “Jade Helm 15 Operation” Violate Posse Comitatus?

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Obscured by [Jon Stewart's well-publicized mockery](#) of Texans' reaction to Jade Helm 15—the US Army's two-month-long exercise across nine states scheduled to begin in July—is the fact that the criticisms may not all be deranged droolings.

The *Daily Show's* Stewart made headlines earlier in May when he [ridiculed Texas Governor Greg Abbott's decision](#) ordering the State Guard to “monitor” Jade Helm. The comedian-cum-newsman called Jade Helm critics “Lone Star lunatics.” But are they? Or is there more to the story? As always, *WhoWhatWhy* has remained agnostic while asking questions. Now, we provide a few initial answers. More will undoubtedly come.

Jade Helm will be conducted in the states of Texas, New Mexico, Arizona, California, Nevada, Utah, Mississippi, Florida and Louisiana. One other state, Colorado, has dropped off the list, as have at least two counties in Texas, [in response to the controversy](#).

Criticisms of the exercise range from panicked, extreme scenarios, such as imminent martial law and mass arrests, to more nuanced concerns—for example, that military exercises on this scale could desensitize civilian populations to martial law tactics and governance.

The massive exercise, led by the US Army's Special Operations Command (USASOC) under Lt. General Charles T. Cleveland, will include unconventional warfare units from all service branches, including US Army Special Forces, US Navy SEALs, US Air Force Special Operations, and USMC Marine Special Operations Command.

According to Jade Helm's [official PowerPoint presentation](#), other participating units are USMC Marine Expeditionary Units, the Army's 82nd Airborne, and last but not necessarily least, civilian “Interagency Partners.” The latter refers to a range of domestic law enforcement agencies including the FBI, Drug Enforcement Administration, and Department of Homeland Security.

One contingent, Special Operations, is of particular interest. Special operations units are highly trained elites that specialize, among other things, in assassinations and “extractions” of human targets. In a 2013 article titled [“5 Takeaways from the US Special Ops Raids in Somalia and Libya,”](#) published by the Washington DC-based defense trade journal [DefenseOne.com](#), an analyst heaped praise upon “small, multi-agency task forces

led by Joint Special Operations Command (JSOC) that target individual terrorist and insurgent leaders for death or capture.”

“Infiltrating” Towns and Cities

Jade Helm presenters have stated that troops will “infiltrate” towns and cities, and rove among the civilian population, both in uniform and in civilian clothes. Roy Boyd, chief deputy of the Victoria County Sheriff’s Office, [told the Houston Chronicle](#): “They’re going to set up cells of people and test how well they’re able to move around without getting too noticed in the community... They’re testing their abilities basically [to] blend in with the local environment and not stand out and blow their cover.”

Elaborating further, Thomas Mead, a contractor hired by USASOC, said in a [presentation to the Big Spring, Texas, City Council](#) in March that special forces “operators,” as Special Ops soldiers are called, will enlist local roleplayers as informants. Mead told the City Council that operators will be looking for “someone who gives a little nugget of information for them to build an intelligence picture.”

It is these kinds of activities, resembling counter-insurgency, that set Jade Helm apart from the previous exercises that the Army cites as similar to Jade Helm. This argument hinges on what is meant by “similar.” The scripts in those previous exercises called for Special Ops “operators” to assist local insurgents or “freedom fighters” in resisting tyrannical authorities. In Jade Helm, the US operators will apparently be working to *suppress* an insurgency. This will involve activities more in keeping with law enforcement, such as information-gathering from locals, moving about undercover in communities, and assaults on selected “targets.” Residents have been told to expect “increased aircraft in the area at night.”

Critics of Jade Helm note that the military is not intended nor designed to function as a law enforcement body, and that soldiers are not trained to evaluate the legal nuances of probable cause or to safeguard the rights of civilian detainees.

Is This Something New?

Stewart, and other influential media figures, have assured the public that there’s no basis for concern because “similar” exercises have been conducted for years without any undue harm.

One exercise, just recently concluded in May, took place in Richland, South Carolina. In it, the 3rd Special Forces Group out of Ft. Bragg, North Carolina, trained with Richland County deputies for two weeks, in “late-night and pre-dawn exercises.” [WLTX 19 News](#) relayed the Sheriff’s Department’s message that residents should not be alarmed at hearing “ordnance being set off or shots being fired.”

Given that the South Carolina exercise passed virtually unnoticed, why is Jade Helm setting off so many alarm bells? Is this business as usual—or practice for martial law, as Jade Helm critics contend? What makes Jade Helm different from previous military exercises carried out on US civilian soil?

This is where the misinformation is flying fast and furious. In his presentation in Big Springs, USASOC contractor Mead acknowledged that the exercise is actually the first of its kind. He told the audience that the closest he could come to identifying an operation somewhat

resembling Jade Helm is the Army's much smaller, annual exercise known as [Robin Sage](#).

In Robin Sage, [“The People's Republic of Pineland”](#) is a fictitious country spanning 15 counties in North Carolina, where US Special Forces soldiers seek out “insurgents” (played by actors) who, for the purposes of the exercise, are treated as US-backed freedom fighters. Special Forces set up “base camps” for these fighters, with the goal of “liberating” Pineland. As such, Robin Sage is a proactive insurgency exercise. Jade Helm seems to be precisely the opposite: a counter-insurgency exercise.

Despite this difference, Robin Sage does offer a stark illustration of what can go wrong when armies are set loose in a civilian countryside. In 2002, one [soldier was killed and another wounded](#) when a local police officer opened fire on them, not knowing they were part of the Robin Sage exercise.

Under the Pretext of Defending

A bedrock principle of American law since the Civil War, and even prior, has been the clear prohibition against the use of federal troops—as opposed to National Guard operating under the authority of the various states—for domestic law enforcement. This dates back to the [Posse Comitatus Act](#), which in turn is grounded in the Founding Fathers' warning against “standing armies.”

The [relevant text of the Posse Comitatus](#), which roughly means ‘deputized force,’ in 18 U.S.C. § 1385 reads (as amended in 1956):

“Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a *posse comitatus* or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.”

Posse Comitatus does not preclude the military from conducting exercises on civilian soil, which, as detractors of “paranoid” Texans point out, takes place all the time. The law *does* however prohibit the US military from engaging in direct law enforcement activities. This would certainly include the capture on US soil of US citizens suspected of breaking the law in any way, shape, or form.

Interestingly, as an institution, the US military seems to agree with and abide by the spirit of *Posse Comitatus*. In a 2001 paper for the School of Advanced Military Studies at Ft. Leavenworth, Kansas, [“Posse Comitatus: A Nineteenth Century Law Worthy of Review For the Future?”](#) the author notes:

“The desire to separate the military from policing activities within the US can be traced to the very origins of the republic itself. The perception is that a standing military force attempting to enforce civil laws allows for despots to retain power by force of arms rather than by the consent of the governed.”

The author, a US Army Major, concludes that: “There are still today, many good and valid reasons behind the *Posse Comitatus* Act.” In referring to the “origins of the republic,” the Major may have had in mind James Madison, a Founding Father vociferously distrustful of large “standing armies.” Madison wrote: “Throughout all Europe, the armies, kept up under

the pretext of defending, have enslaved the people.”

In Jade Helm, a litmus test of success will be how well Special Forces “operators” move about within civilian populations without being noticed, or at least calling too much attention to themselves. “If you’re able to notice our guys, we’re probably doing something wrong,” Mead, the USASOC contractor, told the Big Spring City Council.

In the Big Spring City Council meeting, residents were told to expect activity to occur “between 11p.m. and 4a.m.” During the question-and-answer period, to a packed house, an assistant to Mead revealed: “we come in doing the *hit*, and [extracting](#). Time on the ground may be 15 to 20 minutes of exposure, then that’s it.” (*Emphasis added.*)

The word “extracting” is critical. In special operations parlance, extracting a “high value target” can mean to take that “target” (a person) away from his home or location, willingly or unwillingly. Here’s how Wikipedia, describes “military extraction”: “Essentially, it is kidnapping by military or intelligence forces.”

How Real is Real?

To critics, one of the most disturbing aspects of the exercise is USA SOC’s openly stated desire to conduct the exercise in a “realistic” environment. In recent years hundreds of millions of dollars have been spent creating realistic facsimiles of foreign towns and even small cities on military bases in the US; the purpose of this program is to give soldiers a taste of what they might encounter during urban warfare operations overseas. [A new \\$90 million training center](#) In Northern Virginia boasts stores, a gas station, school, soccer field, church, mosque tunnels, and a subway platform.

But what might the military mean by “realistic environment” in the context of Jade Helm? In terms of culture and physical setting, only English-speaking America resembles English-speaking America. As a concerned resident of one of the affected small towns in Texas [told a newspaper](#): “What place looks like this—except this?” Put another way, if Special Ops were to prowl the coffee shops of North Korea, Ukraine, or Tehran questioning locals for information, they would be rounded up within an hour. So, as Jon Stewart might have asked if he had looked a little deeper into the Jade Helm scenario, whom is America fixing to invade? Canada?

Are Texans Crazy?

Texas’s reticence is surprising. The state would seem to be last place in the US to emerge as the center of “resistance” to Jade Helm.

Its gun-friendly culture is hardly averse to American militarism. The state has one of the highest concentrations of military personnel in the nation. Uniforms are everywhere, in the airports and in the towns. The state hosts two of the largest military bases in the US: Ft. Hood and Ft. Bliss. In Texas, everyone knows someone in the Army.

Those who mock the governor’s decision ordering the Texas State Guard [to monitor Jade Helm](#) would no doubt question the relevance of Madison’s warning about standing armies or the cautionary language of the Posse Comitatus Act—particularly in an era of endless war on terror.

But the very definition of tyranny is the deployment of the army, intended only for foreign

wars, against its own people. And if Jade Helm is not a deployment but an exercise, then, critics legitimately ask, what is an exercise for, except to prepare for some “realistic” eventuality? Which raises an even more uncomfortable question: Should practicing for something illegal in itself be illegal?



US Army Special Operations Command

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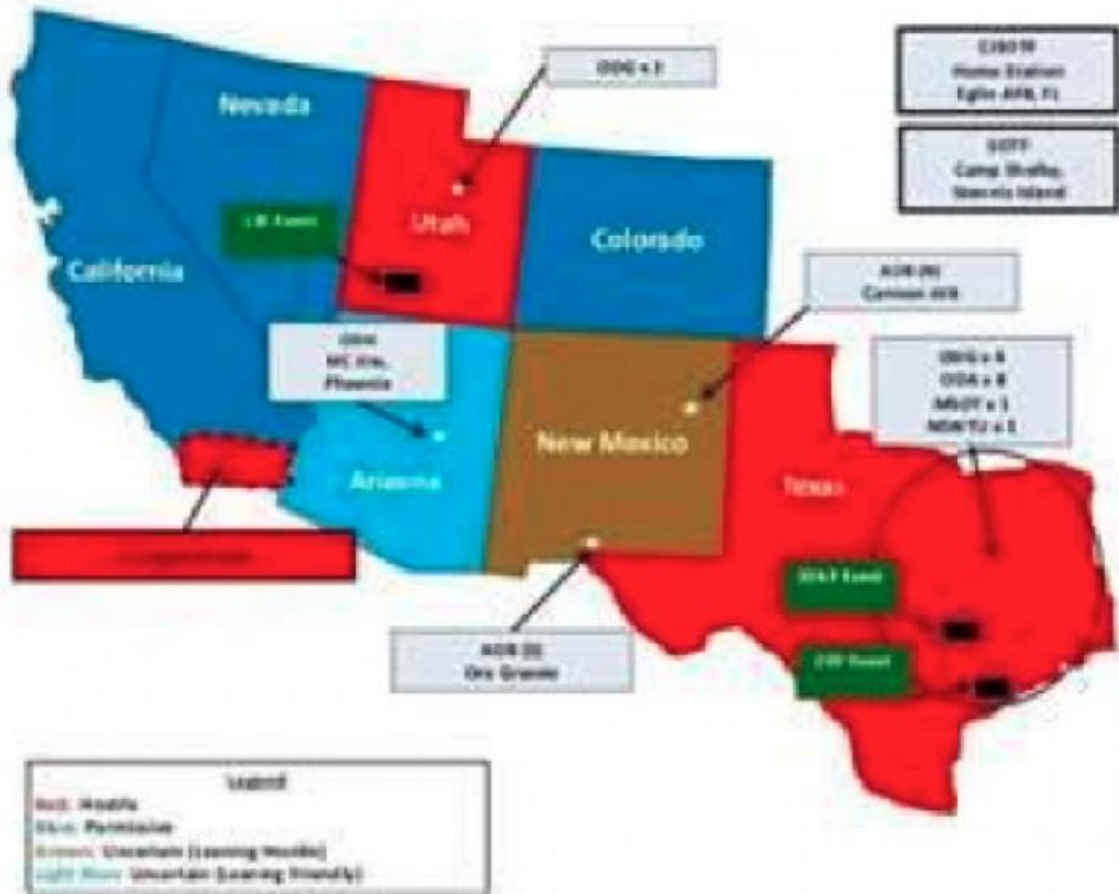
**Request to Conduct
Realistic Military Training (RMT)
JADE HELM 15**

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US Army Special Operations Command

Face Page of US Army unclassified document on Jade Helm 15. Photo credit: [US Army](#)



Page from US Army Jade Helm document showing “hostile” states in red. Photo credit: [US Army](#).



Mock Middle Eastern town set up in Ft. Irwin, VA, with actors.

The media have done a grave disservice by repeatedly mischaracterizing Texan citizens as hysterically complaining of a “takeover” of Texas. In fact, the video record shows questions from the audience at the military’s city council presentations to be calm and reasonable. At no point does anyone accuse the Army of plotting to “take over Texas,” a recurring catchphrase in the mockery of Jade Helm critics. At a Bastrup County meeting, one man expresses concern over “increasing indications that the military is getting a little too involved in civilian law enforcement.”

Most of the shouting about wilder scenarios originates from unaccountable Internet sites, and is then picked up and magnified by others in an echo chamber effect.

One recurrent theme links the recent sudden, simultaneous closing of Walmarts in four states—two stores in Texas, one in California, Oklahoma and Florida—to Jade Helm’s future need to secure large spaces for allegedly nefarious purposes. But in none of the presentations before city councils which are available for public viewing, has anyone asked a single question about the Walmarts. In his [letter declaring](#) that he is ordering the Texas State Guard to “monitor” Jade Helm activities, Texas Governor Greg Abbott asks, in language that is not especially strident, that Texans’ “safety, constitutional rights, private property rights, and civil liberties” not to be infringed.

Oath Keepers, an organization of present and former US military and law enforcement personnel whose mission statement is a vow [to disobey illegal and unconstitutional orders](#), casts a wary eye upon Jade Helm. Oath Keepers is portrayed often as a far-right group, although its declared goal is not aggression but caution. Its founder and president, [Stewart Rhodes](#), is a former US Army Ranger who holds a law degree from Yale. Rhodes has repeatedly defended his group publicly, including on [Chris Matthews’ Hardball](#), and has surprised some viewers for his thoughtfulness.

Rhodes [said in an interview](#) that one purpose of Jade Helms may be the “vetting” of soldiers for their willingness to go along with orders of dubious legality, as a prelude to future unconstitutional incursions by the military into American civil society. Another purpose, Rhodes worries, could be to condition the public to hearing Blackhawk helicopters in their neighborhoods in the middle of the night. It might be easier to dismiss the fears of Rhodes and his colleagues were they not themselves former military.

Critics of expanding executive authority have noted that this enhanced power will redound of course to presidents of either party. They point out that target groups could change as the political winds blow. For this reason, critics of Jade Helm say, concern over Jade Helm should not be confined to “Obama-haters” or what is characterized as the far-right. Were someone with, say, a strongly Christian-Right or anti-union or “law and order” orientation to be elected, he or she would wield the same powers—over Occupy Wall Street or police misconduct protesters, gays, strikers, or other groups that might be perceived as a menace to society. Rhodes predicts that new military powers would invariably be tested on those who would garner little sympathy, such as a “compound of skinheads.”

Shrill Alarmism? Or More Constitution-Shredding Come True?

The list of concerns over Jade Helm does not end with the perception that the military is treading perilously close to traditionally prohibited activities. Experts on *Posse*

Comitatus note that even during more turbulent times, such as after the assassination of Dr. Martin Luther King, when riots broke out in many major American cities including Chicago, Detroit, and Washington DC, it was not the military that responded but the National Guard, fulfilling its historic role of restoring law and order amid chaos.

Environmental activist Carol Miller, founder of [Peaceful Skies](#), sees Jade Helm as part of a wider recent pattern of the military expanding its activities beyond military bases, across the nation. Peaceful Skies is a non-profit group formed in 2010 to halt the expansion of low altitude military training flights across the skies of New Mexico. In an article “Why Are So-Called Progressives Defending Special Ops Training?” Miller recounted her work as an organizer against expanding militarization in the US, recalling:

“As community after community told their story we realized that the situation was identical no matter where in the US the military was expanding... The Pentagon wants to expand the boot-print not only of its bases, but also to expand military activities across public lands; national forests, national parks and Bureau of Land Management (BLM.)”

Miller is aghast that the progressive Left was in the vanguard ridiculing citizens concerned with Jade Helm, rather than asking questions about the military operation. [Miller writes](#):

“Mock invasions, mock terrorist manhunts, shootouts, and roundups are not jokes.” In an interview with WhoWhatWhy, she also addressed concerns that Jade Helm’s activities posed a risk of sparking wildfires in the drought-stricken Southwest. Miller pointed out that during summers, the worst of the drought season when Jade Helm will take place, the “forest service does not let us drive vehicles in the forest, smoke, operate chainsaws or even have a barbecue.” Of particular concern is any role played by V-22 Osprey aircraft operating out of Cannon, NM. The Osprey, a tilt-wing model which directs hot exhaust onto the ground when it maneuvers, has already caused numerous fires. Not amused by Jon Stewart’s light-hearted dismissal of concerns over the exercises, Miller wrote of Jade Helm: “The last shreds of democracy are at stake.”

Is it unreasonable to believe that elements in the US government capable of playing fast and loose with freedom? What has the history of civil liberties and the Constitution been for the last 14 years, since 9/11? We might recall Edward Snowden’s revelations on NSA domestic eavesdropping, the continuing debate over the USA Patriot Act controversy over Transportation Security Administration airport policies, and the militarization of local police forces, all of which have been constantly in the news.

This is not a matter of Left vs Right, or Democrat vs Republican. The Bush administration trampled routinely on American freedoms, and Obama has done the same. This is apparently too painful for his supporters to contemplate. Years ago, Obama’s defenders mocked those who warned [that the NDAA](#)(shorthand for a new law purporting to allow the indefinite military detention of US citizens without charges or trial),could be [applied to US citizens](#). Obama partisans maintained that care was taken to specifically exclude US citizens from being subject to indefinite military detention. But now figures from the Left including [Noam Chomsky and Chris Hedges](#) have sued in federal court because—it turns out—the law indeed allows for US citizens to be held without charge nor trial, by the military... forever. Obama not only failed to oppose the provision which made it applicable to US citizens on US soil:[according to US Senator Carl Levin](#) (D-MI), it was Obama who

insisted that it *must* apply to US citizens as well.

The truth is, military policy is hardly crafted by the temporary occupants of the White House. Long-term strategy is... long-term, and it has institutional sponsors who prevail through presidency after presidency.

An interesting glimpse into the mindset of the men behind Jade Helm is an official document published in 2014, written by the commander of USASOC and the prime mover of the operation, Lt. General Charles T. Cleveland. The treatise, titled "[Operating Concept 2022,](#)" is nothing less than the general's personal vision for the US military's largest and most prestigious group of special operations soldiers, the US Army's Special Operations Command, which includes the fabled Green Berets.

Among the goals mentioned in the treatise, which is linked prominently on the homepage of the [command's website](#), is safeguarding the "moral" security of the United States.

Cleveland also wrote, in the same paper, of the need to "operationalize" the "CONUS" in the service of such goals. CONUS is military jargon for the continental United States.

Exactly what the general, who commands 10,000 super-soldiers who cannot be opposed by any civilian force, is thinking, is anyone's guess.



Jade Helm emblem and motto: "Master the Human Domain." Watch the [Army's official Jade Helm presentation here](#).

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